

<b>Tab 1</b>	<b>SB 96 by DiCeglie;</b> Identical to H 00063 Transportation Facility Designations/Deputy Sheriff Michael Hartwick Memorial Highway					
547876	D	S	RCS	TR, DiCeglie	Delete everything after	03/20 06:30 PM
<b>Tab 2</b>	<b>SB 678 by Powell;</b> Identical to H 00763 Disposal of Property					
<b>Tab 3</b>	<b>SB 712 by Avila (CO-INTRODUCERS) Garcia;</b> Similar to H 00637 Motor Vehicle Sales					
816554	D	S	RCS	TR, Avila	Delete everything after	03/20 06:31 PM
<b>Tab 4</b>	<b>SB 760 by Perry;</b> Similar to H 00701 Wrecker and Towing-storage Operators					
652044	D	S	RCS	TR, Perry	Delete everything after	03/22 01:41 PM
<b>Tab 5</b>	<b>SB 838 by Collins;</b> Identical to H 00709 Proceeds Funding Motorcycle Safety Education					
445874	D	S	RCS	TR, Collins	Delete everything after	03/22 01:40 PM
<b>Tab 6</b>	<b>SB 1070 by Hooper;</b> License Taxes					
948716	A	S	RCS	TR, Hooper	Delete L.64 - 68:	03/22 01:41 PM
<b>Tab 7</b>	<b>SB 1250 by DiCeglie;</b> Similar to H 01305 Department of Transportation					
161020	A	S	RCS	TR, DiCeglie	btw L.140 - 141:	03/20 06:31 PM
<b>Tab 8</b>	<b>SB 1258 by Trumbull (CO-INTRODUCERS) Burgess, Gruters, Ingoglia;</b> Similar to CS/H 01191 Use of Phosphogypsum					
779718	A	S	RCS	TR, Trumbull	Delete L.83 - 89:	03/20 06:31 PM
<b>Tab 9</b>	<b>SB 1532 by Burgess (CO-INTRODUCERS) Collins;</b> Compare to CS/H 01397 Regional Transportation Planning					
457298	A	S	RCS	TR, Burgess	Delete L.19 - 54:	03/20 06:31 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**TRANSPORTATION**  
**Senator DiCeglie, Chair**  
**Senator Davis, Vice Chair**

**MEETING DATE:** Monday, March 20, 2023  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Building*

**MEMBERS:** Senator DiCeglie, Chair; Senator Davis, Vice Chair; Senators Boyd, Broxson, Burton, Gruters, Hooper, Pizzo, Torres, and Trumbull

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 96</b> DiCeglie (Identical H 63)	Transportation Facility Designations/Deputy Sheriff Michael Hartwick Memorial Highway; Providing an honorary designation of a certain transportation facility in a specified county; directing the Department of Transportation to erect suitable markers, etc.  TR 03/20/2023 Fav/CS ATD FP	Fav/CS Yeas 10 Nays 0
2	<b>SB 678</b> Powell (Identical H 763)	Disposal of Property; Providing that the use of property as affordable housing qualifies as use for a public purpose in the context of the authorization of the Department of Transportation to convey property without consideration to a governmental entity, etc.  CA 03/07/2023 Favorable TR 03/20/2023 Favorable RC	Favorable Yeas 10 Nays 0
3	<b>SB 712</b> Avila (Similar H 637)	Motor Vehicle Sales; Prohibiting applicants and licensees from reserving a certain motor vehicle for a specifically named person; prohibiting applicants and licensees from requiring or incentivizing motor vehicle dealers to sell or lease particular motor vehicles to specifically named persons or at specific prices or profit margins; prohibiting applicants and licensees from engaging in certain activities of motor vehicle dealers; authorizing specified entities without independent franchised dealers in this state to own, operate, or control a motor vehicle dealership in this state, etc.  TR 03/20/2023 Fav/CS CM RC	Fav/CS Yeas 9 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Transportation

Monday, March 20, 2023, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 760</b> Perry (Similar H 701)	Wrecker and Towing-storage Operators; Prohibiting the Division of the Florida Highway Patrol from excluding wrecker operators from the wrecker operator system or from being designated as an authorized wrecker operator based solely on a prior felony conviction; authorizing a towing-storage operator to charge certain fees; providing that a lien can be placed on a vehicle only for specified fees; revising the timeframe in which certain unclaimed vehicles or vessels may be sold; revising the timeframe in which public notice of the sale of a vehicle or vessel must be published, etc.  TR 03/20/2023 Fav/CS CA RC	Fav/CS Yeas 10 Nays 0
5	<b>SB 838</b> Collins (Identical H 709)	Proceeds Funding Motorcycle Safety Education; Requiring a portion of Highway Safety Operating Trust Fund proceeds to fund a motorcycle driver improvement program administered by a specified nonprofit entity; providing program requirements; requiring a report to the Legislature, etc.  TR 03/20/2023 Fav/CS ATD AP	Fav/CS Yeas 10 Nays 0
6	<b>SB 1070</b> Hooper	License Taxes; Imposing specified additional annual license taxes on electric vehicles; imposing specified additional annual license tax on plug-in hybrid electric vehicles; authorizing persons and entities to biennially renew vehicle registrations for electric vehicles and plug-in hybrid electric vehicles; specifying requirements for the use of the proceeds by local governments; providing for future expiration, etc.  TR 03/20/2023 Fav/CS ATD AP	Fav/CS Yeas 10 Nays 0
7	<b>SB 1250</b> DiCeglie (Similar H 1305)	Department of Transportation; Revising the contractual services and commodities that are not subject to specified competitive-solicitation requirements; increasing the maximum cost of contracts for construction and maintenance the department may enter into without advertising and receiving competitive bids; repealing provisions relating to the Santa Rosa Bay Bridge Authority; transferring the governance and control of the Santa Rosa Bay Bridge Authority to the department, etc.  TR 03/20/2023 Fav/CS ATD FP	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Transportation

Monday, March 20, 2023, 12:30—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1258</b> Trumbull (Similar CS/H 1191)	Use of Phosphogypsum; Authorizing the Department of Transportation to undertake demonstration projects using phosphogypsum in road construction aggregate material to determine its feasibility as a paving material; requiring the department to conduct a study on the suitability of using phosphogypsum as a construction aggregate material; prohibiting phosphogypsum placed in specified stack systems from being regulated as solid waste under certain circumstances, etc.  TR      03/20/2023 Fav/CS EN FP	Fav/CS Yeas 9 Nays 1
9	<b>SB 1532</b> Burgess (Compare CS/H 1397)	Regional Transportation Planning; Requiring the Department of Transportation, or its consultant, to conduct a study regarding the Hillsborough Area Regional Transit Authority and the Pinellas Suncoast Transit Authority; specifying requirements of the study; requiring the department to submit a report to the Governor and Legislature by a specified date, etc.  TR      03/20/2023 Fav/CS ATD FP	Fav/CS Yeas 10 Nays 0
Other Related Meeting Documents			

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 96

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Transportation-Related Facility Designations

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Fav/CS</b>
2.			ATD	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 96 creates the following honorary or memorial road and bridge designations:

- The portion of I-275 between mile markers 30 and 31 in Pinellas County as “Deputy Sheriff Michael Hartwick Memorial Highway.”
- The portion of S.R. 87 between E. Bay Boulevard (mile post 2.182) and Bob Tolbert Road (mile post 6.308) in Santa Rosa County as “Sgt. Maj. Thomas Richard “Ric” Landreth Memorial Highway.”
- The portion of Alternate U.S. 19/Bayshore Boulevard between Orange Street and Michigan Boulevard in Pinellas County as “SPC Zachary L. Shannon Memorial Highway.”
- The portion of S.R. 105/Heckscher Drive between New Berlin Road East and Orahod Lane in Duval County as “Officer Scott Eric Bell Highway.”
- The portion of S.R. 9A/East Beltway 295 between Gate Parkway and Baymeadows Road in Duval County as “Officer Christopher Michael Kane Highway.”
- The bridge on Howell Drive over the Ribault River in Duval County as “Coach Gwendolyn Maxwell Bridge to Ribault.”
- Upon completion of construction, the new NASA Causeway Bridge on S.R. 405 over the Indian River in Brevard County as “Dr. Sally Ride Memorial Bridge.”
- The portion of I-95 between mile markers 380 and 381 in Nassau County as “Corporal James McWhorter Memorial Highway.”
- The portion of Cortez Boulevard between U.S. 41 and S.R. 50/50A in Hernando County as “Rush Limbaugh Way.”

- The portion of I-10 between mile markers 222 and 228 in Jefferson County as “Senior Inspector Rita Jane Hall Memorial Highway.”
- The portion of U.S. 19 between C.R. 361/Beach Road and C.R. 30/Foley road in Taylor County as “Michael Scott Williams Parkway.”
- The portion of S.R. 435 between Conroy Road and Vineland Road in Orange County as “Officer Kevin Valencia Memorial Highway.”
- The portion of S.R. 46 between East Lake Mary Boulevard in Seminole County and the Brevard County line as “Deputy Sheriff Eugene ‘Stetson’ Gregory Memorial Highway.”

The estimated cost to the FDOT to install the designation markers required under the bill is \$19,240. See the “Fiscal Impact Statement” below for details.

The bill takes effect July 1, 2023.

## II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.<sup>1</sup>

When the Legislature establishes road or bridge designations, the FDOT is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation and to erect any other markers it deems appropriate for the transportation facility.<sup>2</sup>

The FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, each affected local government must pass resolutions supporting the designations before the installation of the markers.<sup>3</sup>

### **Deputy Sheriff Michael Hartwick**

On September 22, 2022, Pinellas County Deputy Sheriff Michael Hartwick succumbed to injuries he received while working an overnight traffic-directing assignment in a construction zone at I-275 and Ulmerton Road, near the Howard Frankland Bridge. Deputy Hartwick was outside his cruiser when he was struck by a front-end loader hauling concrete barriers. Deputy Hartwick served with the Pinellas County Sheriff’s Office for 19 years. He was 51 and was survived by his two sons and his mother.<sup>4</sup>

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<sup>1</sup> Section 334.071(1), F.S.

<sup>2</sup> Section 334.071(2), F.S.

<sup>3</sup> Section 334.071(3), F.S.

<sup>4</sup> See [odmp.org](https://odmp.org), [foxnews.com](https://www.foxnews.com), [Deputy Sheriff Michael Hartwick, Pinellas County Sheriff’s Office, Florida \(odmp.org\)](https://www.foxnews.com/florida-deputy-killed-by-illegal-immigrant-in-hit-and-run-before-fleeing-scene-sheriff-says), and [Florida deputy killed by illegal immigrant in hit-and-run before fleeing scene, sheriff says | Fox News](https://www.foxnews.com/florida-deputy-killed-by-illegal-immigrant-in-hit-and-run-before-fleeing-scene-sheriff-says) (last visited January 10, 2023).

**Sgt. Maj. Thomas Richard “Ric” Landreth**

Sergeant Major Thomas Richard “Ric” Landreth, Retired US Army, of Southern Pines, North Carolina, was born on April 1, 1957, at Eglin Air Force Base to the late Thomas and Peggy Landreth. He had over 30 years of military service, including deployments to Grenada, Panama, Somalia, Bosnia, Afghanistan, and Iraq, and served in the US Army Special Ops Command until his retirement in 2005. During his tour in Somalia, Sergeant Major Landreth and his squadron were involved in the Battle of Mogadishu in October of 1993, depicted in the “Black Hawk Down” movie in 2001. He passed away on April 25, 2020, after a brief illness. Preceded in death by one son, Sergeant Major Landreth was survived by his wife, three children, one grandchild, and many other family and friends.<sup>5</sup>

**SPC Zachary L. Shannon**

SPC Zachary L. Shannon of Dunedin was born October 28th, 1991, to Kim and Chip Allison. SPC Shannon, a Black Hawk crew chief, joined the Army in August of 2010 and arrived at the unit in April 2012. He was assigned to the 4th Battalion, 3rd Aviation Regiment, 3rd Combat Aviation Brigade, 3rd Infantry Division, Hunter Army Airfield, Georgia. This was his first deployment. On March 11, 2013, while serving during Operation Enduring Freedom in Kandahar, Afghanistan, SPC Shannon lost his life in a UH-60 Black Hawk helicopter crash. He was 21.<sup>6</sup>

**Officer Scott Eric Bell**

Officer Scott Eric Bell was born in Baltimore, Maryland. He had been a resident of Jacksonville for over 20 years and was a retired U.S. Navy Chief with 23 years of service. For the last seven years before his death, Officer Bell served as a police officer with the Jacksonville Sheriff’s Office.<sup>7</sup> On October 12, 2007, Officer Bell was killed when a vehicle operated by an intoxicated driver pulled out in front of his patrol car. Officer Bell was 50<sup>8</sup> and was survived by his wife, mother, and brother, as well as other family members.<sup>9</sup>

**Officer Christopher Michael Kane**

Officer Christopher Kane was a 12-year veteran of the Jacksonville Sheriff’s Office (JSO), having previously served in the U.S. Marine Corps. He received the JSO’s Lifesaving Award in 2003 for helping to save an officer who was severely injured in a personal watercraft accident. He was also an assistant coach of the championship Pop Warner football team from the Orange Park Athletic Association, the Cyclones, who finished third in the national Championships in

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<sup>5</sup> See findagrave.com, [Thomas Richard Landreth \(1957-2020\) - Find a Grave Memorial](#), and pnj.com, [State Road 87 could be named after Black Hawk Down vet from Santa Rosa \(pnj.com\)](#) (last visited January 25, 2023).

<sup>6</sup> See fallenheroesproject.org, [Zachary L. Shannon \(fallenheroesproject.org\)](#), and thefallen.militarytimes.com, [Army Spc. Zachary L. Shannon | Military Times](#) (last visited January 10, 2023).

<sup>7</sup> See legacy.com, [Scott Bell Obituary \(2007\) - Jacksonville, FL - Florida Times-Union \(legacy.com\)](#) (last visited March 13, 2023).

<sup>8</sup> See odmp.org, [Officer Scott Eric Bell, Jacksonville Sheriff's Office, Florida \(odmp.org\)](#) (last visited march 13, 2023).

<sup>9</sup> *Id.*

2007.<sup>10</sup> Officer Kane was killed on September 4, 2008, in a construction zone on Route 9A when his patrol car collided with the back of a semi-truck carrying construction equipment. He was 38 and was survived by his wife and two children.<sup>11</sup>

### **Coach Gwendolyn Maxwell**

Gwendolyn Maxwell, recognized as one of the most successful girls' track and field coaches in the history of Florida, was a lifelong educator for 36 years and the track and field coach at Ribault High School in Jacksonville for 20 years. Among other accomplishments, Coach Maxwell directed five teams to state titles, was named coach of the year five times, and was the Florida representative for the national track coach of the year three times.<sup>12</sup> She was inducted into the Ribault Athletic Hall of Fame in October of 2018, as well as the Florida Athletics Coaches Association Hall of Fame in 1995. Coach Maxwell passed away on June 16, 2020, at the age of 86, after a nearly decade-long battle with Alzheimer's.<sup>13</sup>

### **Dr. Sally Ride**

In 1977, Dr. Sally Ride was one of only six women selected for the National Aeronautics and Space Administration's (NASA's) Astronaut Class of 1978. On June 18, 1983, Dr. Ride became the first American woman in space, and at the age of 32, the youngest American in space as one of five crew members aboard the space shuttle Challenger STS-7. Dr. Ride returned to space on October 5, 1984, aboard another shuttle mission, the STS-41G, and continued working for NASA until 1987. Dr. Ride was passionate about improving science and mathematics education and helping young women and girls foster an interest in science. Dr. Ride passed away on July 23, 2012, after a 17-month battle with pancreatic cancer at the age of 61.<sup>14</sup>

### **Corporal James McWhorter**

Officer James McWhorter was hired by the Office of Agricultural Law Enforcement of the Florida Department of Agriculture and Consumer Services (FDACS) in January 2019 and sponsored through the law enforcement academy at the Florida Gateway College Public Safety Training Center where he graduated and was certified in June 2019. Officer McWhorter died in the line of duty in a vehicle crash near the Agricultural Inspection Station on I-95 in Yulee on February 12, 2022, when he was struck by an oncoming vehicle while crossing from the northbound inspection station to the southbound station. He had served with the FDACS for 2 ½ years, was 31 years old, and was survived by his four children and fiancée. Officer McWhorter was posthumously promoted to Corporal.<sup>15</sup>

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<sup>10</sup> See legacy.com, [Christopher Kane Obituary \(2008\) - Jacksonville, FL - Florida Times-Union \(legacy.com\)](#) (last visited March 13, 2023).

<sup>11</sup> See odmp.org, [Officer Christopher Michael Kane, Jacksonville Sheriff's Office, Florida \(odmp.org\)](#) (last visited March 13, 2023).

<sup>12</sup> See Pepper, C., news4jax.com, [Legendary Ribault track coach Gwendolyn Maxwell dies at 86 \(news4jax.com\)](#) (last visited March 13, 2023).

<sup>13</sup> See Frenette, G., Jacksonville.com, [Gwendolyn Maxwell, state championship track coach at Ribault, dies at 86 \(jacksonville.com\)](#) (last visited March 13, 2023).

<sup>14</sup> See womenshistory.org, [Sally Ride \(womenshistory.org\)](#), and sallyrides.science.ucsd.edu, [Dr. Sally Ride – Sally Ride Science \(ucsd.edu\)](#) (last visited January 25, 2023).

<sup>15</sup> See FDACS email to committee staff dated February 1, 2023 (on file in the Senate Transportation Committee).



### **Rush Limbaugh**

Florida resident Rush Limbaugh was a U.S. radio personality and political commentator. Former President Trump awarded him the Presidential Medal of Freedom, the nation's highest civilian honor.<sup>16</sup> He was once ranked fourth on Forbes' list of most generous celebrities, having donated \$4.2 million to the Marine Corps Law Enforcement Foundation.<sup>17</sup> Mr. Limbaugh passed away on February 17, 2021, following a battle with cancer. He was 70 years old.<sup>18</sup>

### **Senior Inspector Rita Jane Hall**

Rita Jane Hall devoted her career to the service and protection of others. She served with the Tallahassee Police Department from 1988 – 1994, and with the Monticello Police Department from 1997 – 2000, holding the position of Fugitive Unit Coordinator. Ms. Hall also served with the Emergency Action Center, which coordinates emergency responses for all Florida correctional facilities. More recently, she held the position of Senior Inspector for the Office of the Inspector General, Department of Corrections. Ms. Hall passed unexpectedly on December 27<sup>th</sup>, 2018.<sup>19</sup>

### **Deputy Michael Scott Williams**

Deputy Michael Scott Williams served as a City of Brooksville Police Officer from 2005 to 2012, prior to moving to Steinhatchee. He served for 17 months with the Taylor County Sheriff's Office.<sup>20</sup> During his law enforcement career, he received numerous certifications in various law enforcement fields of studies, including Traffic Law Enforcement, Advanced Interviews and Interrogations, Community Policing, Field Training, and Drug Investigations. Deputy Williams was praised for his professionalism and dedication by members of the public.<sup>21</sup> On Monday, October 31, 2016, while serving with the Taylor County Sheriff's Office, Deputy Williams was killed in a vehicle collision with a logging truck at the Intersection of U.S. 98 and U.S. 19.<sup>22</sup>

### **Officer Kevin Valencia**

Born in Queens, New York, on April 16, 1991, Kevin Valencia honorably served the Doral Police Department from 2014 to 2016. He began his career with the Orlando Police Department in 2016, earning numerous awards, including two life-saving awards. On June 11, 2018, Officer Valencia was shot during a domestic violence incident and spent almost the next three years fighting in rehabilitation facilities in Atlanta, Georgia, and Mt. Dora, Florida. On March 15, 2021, Officer Valencia succumbed to the injuries sustained during the domestic violence incident

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<sup>16</sup> See [nbcnews.com, Trump giving Rush Limbaugh the Medal of Freedom was controversial — and fitting \(nbcnews.com\)](https://www.nbcnews.com/news/politics/Trump-giving-Rush-Limbaugh-the-Medal-of-Freedom-was-controversial-and-fitting-nbcnews.com) (last visited March 13, 2023).

<sup>17</sup> See [cnn.com, Rush Limbaugh, conservative media icon, dead at 70 following battle with cancer | CNN Business](https://www.cnn.com/2021/02/18/business/limbaugh-obit/index.html) (last visited March 13, 2023).

<sup>18</sup> *Id.*

<sup>19</sup> See [tallahassee.com, Rita Jane Hall Obituary - Tallahassee Democrat](https://www.tallahassee.com/story/news/2018/12/27/rita-jane-hall-obituary-tallahassee-democrat/) (last visited March 13, 2023).

<sup>20</sup> See [archive.bluelivesmatter.blue, Officer Down: Hero Michael Scott Williams Killed In Crash - Blue Lives Matter](https://archive.bluelivesmatter.blue/officer-down-hero-michael-scott-williams-killed-in-crash-blue-lives-matter/) (lasts visited March 13, 2023).

<sup>21</sup> See email to committee staff dated March 13, 2023 (on file in the Senate Transportation Committee).

<sup>22</sup> *Supra* note 20.

in Tavares, Florida. He was survived by his wife, his two young sons, and many other relatives and friends.<sup>23</sup>

### **Deputy Sheriff Eugene Gregory**

Deputy Sheriff Eugene Gregory served the Seminole County Sheriff's Office for seven years. Deputy Gregory was shot and killed after responding to a shots-fired call on July 8, 1998, while handling an aggravated assault call involving an armed, mentally ill person. He is said to have exemplified the spirit of community policing in his day-to-day service, prompting the Sheriff's Office to take a proactive role in mental health intervention and treatment. Deputy Gregory was 55 years old at the time of his death. He was survived by his wife and three children.<sup>24</sup>

### **III. Effect of Proposed Changes:**

The bill creates the following honorary or memorial road and bridge designations:

- The portion of I-275 between mile markers 30 and 31 in Pinellas County as "Deputy Sheriff Michael Hartwick Memorial Highway."
- The portion of S.R. 87 between E. Bay Boulevard (mile post 2.182) and Bob Tolbert Road (mile post 6.308) in Santa Rosa County as "Sgt. Maj. Thomas Richard 'Ric' Landreth Memorial Highway."
- The portion of Alternate U.S. 19/Bayshore Boulevard between Orange Street and Michigan Boulevard in Pinellas County as "SPC Zachary L. Shannon Memorial Highway."
- The portion of S.R. 105/Heckscher Drive between New Berlin Road East and Orahod Lane in Duval County as "Officer Scott Eric Bell Highway."
- The portion of S.R. 9A/East Beltway 295 between Gate Parkway and Baymeadows Road in Duval County as "Officer Christopher Michael Kane Highway."
- The bridge on Howell Drive over the Ribault River in Duval County as "Coach Gwendolyn Maxwell Bridge to Ribault."
- Upon completion of construction, the new NASA Causeway Bridge on S.R. 405 over the Indian River in Brevard County as "Dr. Sally Ride Memorial Bridge."
- The portion of I-95 between mile markers 380 and 381 in Nassau County as "Corporal James McWhorter Memorial Highway."
- The portion of Cortez Boulevard between U.S. 41 and S.R. 50/50A in Hernando County as "Rush Limbaugh Way."
- The portion of I-10 between mile markers 222 and 228 in Jefferson County as "Senior Inspector Rita Jane Hall Memorial Highway."
- The portion of U.S. 19 between C.R. 361/Beach Road and C.R. 30/Foley road in Taylor County as "Michael Scott Williams Parkway."
- The portion of S.R. 435 between Conroy Road and Vineland Road in Orange County as "Officer Kevin Valencia Memorial Highway."
- The portion of S.R. 46 between East Lake Mary Boulevard in Seminole County and the Brevard County line as "Deputy Sheriff Eugene 'Stetson' Gregory Memorial Highway."

<sup>23</sup> See [legacy.com](https://www.legacy.com), *Kevin Valencia*, [Kevin Valencia Obituary \(1991 - 2021\) - Orlando, FL - Orlando Sentinel \(legacy.com\)](https://www.legacy.com/obituary/obituary.aspx?n=kevin-valencia&cat=obituary) (last visited March 13, 2023).

<sup>24</sup> See [seminolesheriff.org](http://seminolesheriff.org), [In Memoriam \(seminolesheriff.org\)](https://www.seminolesheriff.org/in-memoriam), and [odmp.org](http://odmp.org), [Deputy Sheriff Eugene Andrew Gregory, Seminole County Sheriff's Office, Florida \(odmp.org\)](https://www.odmp.org/deputy-sheriff-eugene-andrew-gregory) (last visited March 17, 2023).

The bill directs the FDOT to erect suitable markers.

The bill takes effect July 1, 2023.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The estimated cost to erect the designation markers required under this bill is \$19,240 , based on the assumption that a minimum of two markers are required for each designation at a cost to the FDOT of no less than \$740 each. The estimate includes labor, materials, manufacturing, and installation. The FDOT is expected to absorb the estimated cost within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The committee substitute adds the following designations to the bill:

- “Sgt. Maj. Thomas Richard ‘Ric’ Landreth Memorial Highway” in Santa Rosa County.
- “SPC Zachary L. Shannon Memorial Highway” in Pinellas County.
- “Officer Scott Eric Bell Highway” in Duval County.
- “Officer Christopher Michael Kane Highway” in Duval County.
- “Coach Gwendolyn Maxwell Bridge to Ribault” in Duval County.
- “Dr. Sally Ride Memorial Bridge” in Brevard County.
- “Corporal James McWhorter Memorial Highway” in Nassau County.
- “Rush Limbaugh Way” in Hernando County.
- “Senior Inspector Rita Jane Hall Memorial Highway” in Jefferson County.
- “Michael Scott Williams Parkway” in Taylor County.
- “Officer Kevin Valencia Memorial Highway” in Orange County.
- “Deputy Sheriff Eugene ‘Stetson’ Gregory Memorial Highway” in Seminole and Volusia counties.

- B. **Amendments:**

None.



547876

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2023	.	
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The Committee on Transportation (DiCeglie) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Transportation facility designations; Department  
of Transportation to erect suitable markers.-

(1) That portion of I-275 between mile markers 30 and 31 in  
Pinellas County is designated as "Deputy Sheriff Michael  
Hartwick Memorial Highway."

(2) That portion of S.R. 87 between E. Bay Boulevard (mile



547876

11 post 2.182) and Bob Tolbert Road (mile post 6.308) in Santa Rosa  
12 County is designated as "Sgt. Maj. Thomas Richard 'Ric' Landreth  
13 Memorial Highway."

14 (3) That portion of Alternate U.S. 19/Bayshore Boulevard  
15 between Orange Street and Michigan Boulevard in Pinellas County  
16 is designated as "SPC Zachary L. Shannon Memorial Highway."

17 (4) That portion of S.R. 105/Heckscher Drive between New  
18 Berlin Road East and Orahood Lane in Duval County is designated  
19 as "Officer Scott Eric Bell Highway."

20 (5) That portion of S.R. 9A/East Beltway 295 between Gate  
21 Parkway and Baymeadows Road in Duval County is designated as  
22 "Officer Christopher Michael Kane Highway."

23 (6) The bridge on Howell Drive over the Ribault River in  
24 Duval County is designated as "Coach Gwendolyn Maxwell Bridge to  
25 Ribault."

26 (7) Upon completion of construction, the new NASA Causeway  
27 Bridge on S.R. 405 over the Indian River in Brevard County is  
28 designated as "Dr. Sally Ride Memorial Bridge."

29 (8) That portion of I-95 between mile markers 380 and 381  
30 in Nassau County is designated as "Corporal James McWhorter  
31 Memorial Highway."

32 (9) That portion of Cortez Boulevard between U.S. 41 and  
33 S.R. 50/50A in Hernando County is designated as "Rush Limbaugh  
34 Way."

35 (10) That portion of I-10 between mile markers 222 and 228  
36 in Jefferson County is designated as "Senior Inspector Rita Jane  
37 Hall Memorial Highway."

38 (11) That portion of U.S. 19 between C.R. 361/Beach Road  
39 and C.R. 30/Foley Road in Taylor County is designated as



547876

40 "Michael Scott Williams Parkway."

41 (12) That portion of S.R. 435 between Conroy Road and  
42 Vineland Road in Orange County is designated as "Officer Kevin  
43 Valencia Memorial Highway."

44 (13) That portion of S.R. 46 between East Lake Mary  
45 Boulevard in Seminole County and the Brevard County line is  
46 designated as "Deputy Sheriff Eugene 'Stetson' Gregory Memorial  
47 Highway."

48 (14) The Department of Transportation is directed to erect  
49 suitable markers designating the transportation facilities as  
50 described in this section.

51 Section 2. This act shall take effect July 1, 2023.

52  
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete everything before the enacting clause  
56 and insert:

57 A bill to be entitled  
58 An act relating to transportation-related facility  
59 designations; providing honorary designations of  
60 certain transportation facilities in specified  
61 counties; directing the Department of Transportation  
62 to erect suitable markers; providing an effective  
63 date.

By Senator DiCeglie

18-00396-23

202396\_\_

1                           A bill to be entitled  
2           An act relating to transportation facility  
3           designations; providing an honorary designation of a  
4           certain transportation facility in a specified county;  
5           directing the Department of Transportation to erect  
6           suitable markers; providing an effective date.  
7

8   Be It Enacted by the Legislature of the State of Florida:  
9

10           Section 1. Deputy Sheriff Michael Hartwick Memorial Highway  
11 designated; Department of Transportation to erect suitable  
12 markers.-

13           (1) That portion of I-275 between mile markers 30 and 31 in  
14 Pinellas County is designated as "Deputy Sheriff Michael  
15 Hartwick Memorial Highway."

16           (2) The Department of Transportation is directed to erect  
17 suitable markers designating Deputy Sheriff Michael Hartwick  
18 Memorial Highway as described in subsection (1).

19           Section 2. This act shall take effect July 1, 2023.



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

96  
Bill Number or Topic

Amendment Barcode (if applicable)

3/20/23  
Meeting Date  
Transportation  
Committee

Name Chris Dudley Phone 850-671-4401

Address 123 S. Adams St, Tall FL 32301 Email dudley@sostategy.com

Tall FL 32301  
City State Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
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*City of Orlando*
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 678

INTRODUCER: Senator Powell

SUBJECT: Disposal of Property

DATE: March 20, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	<b>Favorable</b>
2.	<u>Price</u>	<u>Vickers</u>	<u>TR</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 678 provides that the Florida Department of Transportation may convey property to a governmental entity without consideration if the property is to be used for affordable housing.

The bill takes effect July 1, 2023.

**II. Present Situation:**

**Disposal of Real Property Acquired for Transportation Purposes**

The Florida Department of Transportation (FDOT) acquires land throughout the state to utilize for transportation facilities<sup>1</sup> and secure rights-of-way through purchase, exchange, and donation.<sup>2</sup> FDOT is authorized to convey acquired property it determines not to be needed for the construction, operation, and maintenance of a transportation facility.<sup>3</sup>

Generally, FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest.<sup>4</sup> A sale of unneeded property may not occur at a price less than FDOT's current estimate of value except that:

- If donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose

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<sup>1</sup> "Transportation facility" means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place. *See* s. 334.03(30), F.S.

<sup>2</sup> Section 337.25(1), F.S.

<sup>3</sup> Section 337.25(4), F.S.

<sup>4</sup> *Id.*

jurisdiction the property lies may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.<sup>5</sup>

- If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.<sup>6</sup>
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, FDOT may negotiate for the sale of such property as replacement housing.<sup>7</sup>
- If FDOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes FDOT to significant liability risks, FDOT may use the projected maintenance costs over the next ten years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.<sup>8</sup>

The provision allowing conveyance free of consideration to a governmental entity to be used for a public purpose does not define "public purpose."<sup>9</sup>

### ***Right of First Refusal***

In general,<sup>10</sup> FDOT is required to first offer the property (a "right of first refusal") to the property owner from whom FDOT originally acquired the property for FDOT's current estimate of value of the property.<sup>11</sup> The right of first refusal must:

- Be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt;
- Provide the previous owner with a minimum of 30 days to exercise the right in writing; and
- Be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch.

If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. A right of first refusal may not be required for disposal of property acquired more than 10 years before the date of disposition by FDOT.<sup>12</sup>

### **Affordable Housing**

One major goal at all levels of government is to ensure that citizens have access to affordable housing. In general, housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income on either rent or mortgage payments is considered "cost burdened," while those paying more than 50 percent are

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<sup>5</sup> Section 337.25(4)(a), F.S.

<sup>6</sup> Section 337.25(4)(b), F.S.

<sup>7</sup> Section 337.25(4)(c), F.S.

<sup>8</sup> Section 337.25(4)(d), F.S.

<sup>9</sup> *Supra*, note 6. "Public purpose" is defined by *Black's Law Dictionary* as "an action by or at the direction of a government for the benefit of the community as a whole."

<sup>10</sup> This is the case in all conveyances other than returning property to the original donor, the sale of property to produce replacement housing for persons displaced by transportation projects, and the disposal of property acquired more than 10 years before the date of disposition by the department. *Supra* note 3.

<sup>11</sup> *Supra* note 3.

<sup>12</sup> *Id.*

considered “extremely cost burdened.” Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida’s state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area.

Housing costs reflect what people are willing to pay to live in an area, which may make it difficult for the workforce, elders, and people with disabilities to find affordable homes and apartments. The government helps make housing affordable through programs which decrease monthly rent or mortgage payments so that income eligible families are able to pay less for housing than it would otherwise cost at “market rate.” Lower monthly payments result from government investment in multifamily rental or single family homes in exchange for price limits.

### ***Disposition of Local Government-owned Property for Affordable Housing***

Since 2006, counties and cities have been required to prepare an inventory of publically owned real property that would be appropriate for use as affordable housing, and update the inventory every three years.<sup>13</sup> The list must include the address and legal description of each such real property, specifying whether it is vacant or improved.

Properties so identified as appropriate for use as affordable housing may be disposed in the following ways:

- Sold and the proceeds used to purchase land for the development of affordable housing;
- Sold with a restriction that requires the development of permanent affordable housing on the land;
- Donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- Made otherwise available for the use for the production and preservation of permanent affordable housing.<sup>14</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 337.25(4)(b), F.S., to provide that the FDOT may convey land not needed for transportation facilities to other governmental entities without consideration for affordable housing purposes.

While current law provides the FDOT may convey such land without consideration “to be used for a public purpose,” the bill expressly provides that such public purposes include local governmental disposition of the property for affordable housing as provided in ss. 125.379 and 166.0451, F.S.

The bill takes effect July 1, 2023.

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<sup>13</sup> Sections 125.379 and 166.0451, F.S.

<sup>14</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None identified.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

To the extent the provision is utilized, local governments may benefit from consideration-free receipt of land for affordable housing from the Department of Transportation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 337.25 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Powell

24-00624-23

2023678\_\_

A bill to be entitled

An act relating to disposal of property; amending s. 337.25, F.S.; providing that the use of property as affordable housing qualifies as use for a public purpose in the context of the authorization of the Department of Transportation to convey property without consideration to a governmental entity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (4) of section 337.25, Florida Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(4) The department may convey, in the name of the state, any land, building, or other property, real or personal, which was acquired under subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. When such a determination has been made, property may be disposed of through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest, with due advertisement for property valued by the department at greater than \$10,000. A sale may not occur at a price less than the department's current estimate of value, except as provided in paragraphs (a)-(d). The department may afford a right of first refusal to the local government or other political subdivision in the jurisdiction in which the parcel is situated, except in a

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

24-00624-23

2023678\_\_

conveyance transacted under paragraph (a), paragraph (c), or paragraph (e). Notwithstanding any provision of this section to the contrary, before any conveyance under this subsection may be made, except a conveyance under paragraph (a) or paragraph (c), the department shall first afford a right of first refusal to the previous property owner for the department's current estimate of value of the property. The right of first refusal must be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt. The right of first refusal must provide the previous owner with a minimum of 30 days to exercise the right in writing and must be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch. If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. The right of first refusal set forth in this subsection may not be required for the disposal of property acquired more than 10 years before the date of disposition by the department.

(b) If the property is to be used for a public purpose, including, but not limited to, affordable housing as provided in ss. 125.379 and 166.0451, the property may be conveyed without consideration to a governmental entity.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

## Committee Agenda Request

**To:** Senator Nick DiCeglie, Chair  
Committee on Transportation

**Subject:** Committee Agenda Request

**Date:** March 7, 2023

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I respectfully request that **Senate Bill #678**, relating to **Disposal of Property**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Bobby Powell".

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Senator Bobby Powell  
Florida Senate, District 24



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 712

INTRODUCER: Transportation Committee and Senators Avila and Garcia

SUBJECT: Motor Vehicle Sales

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Vickers	TR	Fav/CS
2.			CM	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 712 amends the Florida Automobile Dealers Act (Act), which primarily regulates the contractual business relationship between franchised motor vehicle dealers (dealers), and manufacturers, factory branches, distributors, and importers (manufacturers) and provides for the licensure of manufacturers. The Act prohibits certain manufacturers with established dealerships from conducting direct-sales or owning or operating a motor vehicle dealership; however, a manufacturer without a franchised dealership is exempt from this prohibition.

The bill revises provisions related to the licensure of, and contractual agreements between, dealers and manufacturers, as follows:

- Broadens the definition of “common entity” and expands the prohibitions on direct-to-consumer motor vehicle sales, and dealer ownership, by manufacturers that have established dealers.
- Broadens the definition of "sell" to include additional types of financial agreements.
- Prohibits new franchise agreements with manufacturers that do not include all types of “line-make.”
- Prohibits manufacturers from reserving or incentivizing the sale or lease of a motor vehicle.
- Prohibits manufacturers from requiring or incentivizing dealers to sell or lease vehicles at a specified price or profit margin, or restricts the price that a dealer may sell or lease a vehicle.
- Prohibits manufacturers from engaging in certain motor vehicle dealer activities.
- Authorizes manufacturers to sell certain motor vehicle accessories, upgrades, and options through remote electronic transmission;

- Requires the manufacturer to pay the dealer a percentage of the gross sale price, which is at least commensurate with the licensee's dealer margin structure, from an remote electronic transmission upgrade if such upgrade is made within three years after the sale or lease of the new vehicle
- Prohibits manufacturers from refusing to provide a dealer with an "equitable supply" of new vehicles by model, mix, or color as it offers or allocates to dealers.
- Prohibits manufacturers from using the number of motor vehicles pre-ordered or reserved by consumers when determining allocations to dealers.
- Provides that neither a distributor nor an affiliate thereof may be licensed as a motor vehicle dealer or own or operate a dealership that sells or services motor vehicles of the line-make of motor vehicles distributed by the distributor.
- Limits the administrative authority of the Department of Highway Safety and Motor Vehicles (DHSMV) to provide certain exceptions to the restriction on dealer ownership by manufacturers that have established dealers.
- Prohibits manufacturers from controlling by contract, agreement or otherwise a dealership for any "line-make" which is or has been offered for sale in Florida by a franchise agreement with an "independent person."
- Authorizes a motor vehicle dealer association standing to intervene in any hearing held pursuant to s. 320.645, F.S., relating to restrictions on dealership ownership.
- Creates a timeline and process for DHSMV to conduct an inquiry of a manufacturer relating to a written complaint alleging a violation of the Act, when such complaint is made by a franchised motor vehicle dealer or a motor vehicle dealer association with at least one member with a current franchise agreement issued by the manufacturer.
- If the claimant is a motor vehicle dealer association and DHSMV determines that a manufacturer has violated the Act, authorizes the association standing to bring an administrative action on behalf of its members against manufacturers.

The bill may have a negative indeterminate fiscal impact on DHSMV to the extent that the bill results in increased written complaints against manufacturers.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Background of Motor Vehicle Dealer Franchise Agreements

The first automobile franchise in the United States was established by General Motors in 1898.<sup>1</sup> Franchise agreements were initially voluntary.<sup>2</sup> Most state auto franchise laws now extensively regulate the contractual obligations between manufacturers and dealers. In an effort

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<sup>1</sup> Francine Lafontaine and Fiona Scott Morton, *State Franchise Laws, Dealer Terminations, and the Auto Crisis*, 24 J. ECON. PERSP. 233, 234 (2010), <https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.24.3.233> (last visited March 15, 2023).

<sup>2</sup> *Id.* at 238-239.

to protect consumers, these laws prevent manufacturers from selling new vehicles, new brands, and related services directly to the public.<sup>3</sup>

Florida has substantially regulated motor vehicle manufacturers and dealers since before 1950.<sup>4</sup> Initially, Florida implemented consumer protections aimed at preventing consumer abuse by dealers.<sup>5</sup> In 1970, more comprehensive regulations were adopted, embodied in Ch. 320, F.S.,<sup>6</sup> which regulates the contractual relationship between manufacturers and franchised dealers,<sup>7</sup> requires the licensing of manufacturers, and regulates numerous aspects of the contracts between the manufacturers and dealers.

Florida's Automobile Dealer Franchise Law states that "it is the intent of the Legislature to protect the public health, safety, and welfare of the citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers."<sup>8</sup>

Certain manufacturers with established dealer franchises have recently indicated an intent to separate their electric vehicle (EV) and internal combustion vehicle business models, similar to how they currently separate cars and trucks into separate dealership agreements. Some manufacturers indicate they plan to offer a business model that is a hybrid between the current model and the direct-to-consumer model used by some EV manufacturers for both EV and internal combustion vehicle lines.<sup>9</sup> Certain EV manufacturers have developed a cost-effective method of auto distribution known as build-to-order.<sup>10</sup>

Newer automakers that do not have franchise agreements with auto dealers have been using captive (manufacturer-owned) dealerships and the direct-to-consumer model in which consumers custom-design their vehicles on the internet and receive them directly from the manufacturer. However, for in-person needs, these automakers provide their own dealerships and service centers. State franchise laws protect independent dealerships and thus, auto manufacturers that already have franchise agreements with dealers are unable to offer this new way of buying a vehicle to consumers.<sup>11</sup>

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<sup>3</sup> Congressional Research Service, R40712, *U.S. Motor Vehicle Industry Restructuring and Dealership Terminations* (January 8, 2010), [https://www.everycrsreport.com/files/20100108\\_R40712\\_461532aa2624faaa80c6e8f950d6b0ad0719195e.pdf](https://www.everycrsreport.com/files/20100108_R40712_461532aa2624faaa80c6e8f950d6b0ad0719195e.pdf) (last visited March 15, 2023).

<sup>4</sup> Chapter 9157, Laws of Fla. (1923); Chapter 20236, Laws of Fla. (1941).

<sup>5</sup> Walter E. Forehand and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 FLA. ST. UNIV. LAW REV. 1058, 1064 (2002), <http://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1632&context=lr> (last visited March 15, 2023).

<sup>6</sup> Ch. 70-424, Laws of Fla.

<sup>7</sup> Section 320.60(11), F.S.

<sup>8</sup> Section 320.605, F.S.

<sup>9</sup> Greg Rosalsky, *Inside the rise of 'stealerships' and the shady economics of car buying*, National Public Radio (NPR) (August 30, 2022), <https://www.npr.org/sections/money/2022/08/30/1119715886/inside-the-rise-of-stealerships-and-the-shady-economics-of-car-buying> (last visited March 15, 2023).

<sup>10</sup> The United States Department of Justice, *Economic Effects of State Bans on Direct Manufacturer Sales to Car Buyers* (May 2009), <https://www.justice.gov/sites/default/files/atr/legacy/2009/05/28/246374.pdf> (last visited March 15, 2023).

<sup>11</sup> Rosalsky, *supra* note 9.

Recently, manufacturers and dealers have engaged in public disputes about how vehicles should be sold in the future, and about whether dealer franchise laws have contributed to dealers pricing their new cars at an all-time high.<sup>12</sup> Ford Motor Company recently wrote a formal letter to its dealers asking them to cut down on markups, additional waiting list fees and deposits for EVs, and gave notice to dealers that it would cut back on sending them Ford's most popular vehicles if prices did not come down.<sup>13</sup> Dealers have responded by arguing that manufacturer actions will not solve pricing issues and will interfere with market competition.

### **Florida Automobile Dealers Act**

Manufacturers must be licensed to engage in business in Florida.<sup>14</sup> The “Florida Automobile Dealers Act”<sup>15</sup> (Act), primarily regulates the contractual business relationship between dealers and manufacturers; and provides for the licensure of the manufacturers. The Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for administering and enforcing the Act.<sup>16</sup> The Act specifies, in part:<sup>17</sup>

- The conditions and situations under which DHSMV may deny, suspend, or revoke a regulated license;
- The process, timing, and notice requirements for manufacturers who wish to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which DHSMV may deny such a request;
- The procedures manufacturers must follow to add a franchised dealership in an area already served by a franchised dealer, the protest process, and DHSMV’s role in these circumstances;
- The damages that can be assessed against a manufacturer who is in violation of Florida Statutes; and
- DHSMV’s authority to adopt rules to implement these sections of law.

The Act applies to all presently existing or future systems of distribution of motor vehicles in Florida, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution. Generally, all agreements that are renewed, amended, or entered into subsequent to October 1, 1988, are governed by the Act, including amendments to the Act, unless the amendment specifically provides otherwise.<sup>18</sup>

### **Definitions**

The Act provides definitions for several terms used throughout it, which are described below.

“Common entity” is defined as a person:<sup>19</sup>

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<sup>12</sup> Motor Biscuit, *Ford Threatens to Cut Dealer Inventories to Demolish Price Markups* (February 9, 2022), [https://www.motorbiscuit.com/ford-threatens-cut-dealer-inventories-demolish-price-markups/?utm\\_source=npr\\_newsletter&utm\\_medium=email&utm\\_content=20220826&utm\\_term=7163011&utm\\_campaign=money&utm\\_id=4320608&orgid=&utm\\_att1=](https://www.motorbiscuit.com/ford-threatens-cut-dealer-inventories-demolish-price-markups/?utm_source=npr_newsletter&utm_medium=email&utm_content=20220826&utm_term=7163011&utm_campaign=money&utm_id=4320608&orgid=&utm_att1=) (last visited March 15, 2023).

<sup>13</sup> *Id.*

<sup>14</sup> Section 320.61(1), F.S.

<sup>15</sup> Forehand, *supra* note 5, at 1065.

<sup>16</sup> Section 320.011, F.S.

<sup>17</sup> *See* ss. 320.60-320.70, F.S.

<sup>18</sup> Section 320.6992, F.S.

<sup>19</sup> Section 320.60(2), F.S.

- Who “is either controlled or owned, beneficially or of record, by one or more persons who also control or own more than 40 percent of the voting equity interests of a manufacturer;” or
- Who “shares directors or officers or partners with a manufacturer.”

“Distributor” is defined as “a person, resident or nonresident, who, in whole or in part, sells or distributes motor vehicles to motor vehicle dealers or who maintains distributor representatives.”<sup>20</sup>

“Factory branch” is defined as “a branch office maintained by a manufacturer, distributor, or importer for the sale of motor vehicles to distributors or to motor vehicle dealers, or for directing or supervising, in whole or in part, its representatives in this state.”<sup>21</sup>

“Importer” is defined as “any person who imports vehicles from a foreign country into the United States or into this state for the purpose of sale or lease.”<sup>22</sup>

“Licensee” is defined as “any person licensed or required to be licensed under s. 320.61, F.S., which includes motor vehicle manufacturers, distributors, and importers.”<sup>23</sup>

“Manufacturer” is defined as “any person, whether a resident or nonresident of this state, who manufactures or assembles motor vehicles or who manufactures or installs on previously assembled truck chassis special bodies or equipment which, when installed, form an integral part of the motor vehicle and which constitute a major manufacturing alteration. The term “manufacturer” includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, it distributes its products.”<sup>24</sup>

“Line-make vehicles” are defined as “motor vehicles which are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer of same” (such as Ford, General Motors, or Honda). “However, motor vehicles sold or leased under multiple brand names or marks shall constitute a single line-make when they are included in a single franchise agreement and every motor vehicle dealer in this state authorized to sell or lease any such vehicles has been offered the right to sell or lease all of the multiple brand names or marks covered by the single franchise agreement.”<sup>25</sup>

“Motor vehicle dealer” is defined as “any person, firm, company, corporation, or other entity, who:”<sup>26</sup>

- Is licensed as a “franchised motor vehicle dealer” and, “for commission, money, or other things of value, repairs or services motor vehicles or used motor vehicles pursuant to a franchise agreement;”
- Who “sells, exchanges, buys, leases or rents, or offers, or attempts to negotiate a sale or exchange of any interest in, motor vehicles;” or

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<sup>20</sup> Section 320.60(5), F.S.

<sup>21</sup> Section 320.60(6), F.S.

<sup>22</sup> Section 320.60(7), F.S.

<sup>23</sup> Section 320.60(8), F.S.

<sup>24</sup> Section 320.60(9), F.S.

<sup>25</sup> Section 320.60(14), F.S.

<sup>26</sup> Section 320.60(11), F.S.

- Who “is engaged wholly or in part in the business of selling motor vehicles, whether or not such motor vehicles are owned by such person, firm, company, or corporation.”

Such persons, or persons who buy, sell, or deal in three or more motor vehicles in any 12-month period or who offer or display for sale three or more motor vehicles in any 12-month period are prima facie presumed to be a motor vehicle dealer.<sup>27</sup>

The terms “selling” and “sale” “include lease-purchase transactions.”<sup>28</sup>

The term “motor vehicle dealer” does not include:<sup>29</sup>

- “Public officers while performing their official duties;”
- “Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court;”
- “Banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business;” or
- “Motor vehicle rental and leasing companies that sell motor vehicles to licensed motor vehicle dealers.”

The terms “sell,” “selling,” “sold,” “exchange,” “retail sales,” and “leases” are defined, as follows:<sup>30</sup>

- “Any transaction where the title of motor vehicle or used motor vehicle is transferred to a retail consumer.”
- “Any retail lease transaction where a retail customer leases a vehicle for a period of at least 12 months.”
- “Establishing a price for sale when an applicant or licensee has sold a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle does not constitute a sale or lease.”<sup>31</sup>

### **Grounds for Denial, Suspension, or Revocation of a License**

An application for a manufacturer, distributor, and importer license (license) may be denied, or a license may be revoked or suspended, on various grounds. Denials, suspensions, or revocations of licenses can be based on consumer protection; however, the grounds for acting against manufacturers arise principally out of their dealings with motor vehicle franchised dealers with whom the manufacturers have a contractual relationship allowing the dealer to sell and service the manufacturer’s new motor vehicles.<sup>32, 33</sup>

Currently, there are 42 different criteria that may cause DHSMV to deny, suspend, or revoke a manufacturer’s license. The criteria cross many topics, including: contractual obligations;

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Section 320.60(15), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 320.64, F.S.

<sup>33</sup> Section 320.60(l) (defining “agreement” or “franchise agreement”).

coercion or threats; discontinuation, canceling, non-renewing, modifying, or replacing franchise agreements; requiring changes to a dealer's sales or service facility; reducing the supply of new vehicles or parts to a franchised dealer; audits; disclosure of confidential financial information; failure to pay the dealer; and denying a warranty repair claim.<sup>34</sup>

An applicant or manufacturer is prohibited from establishing or implementing a system of motor vehicle allocation or distribution to its franchised motor vehicle dealers which reduces or alters allocations or supplies of new motor vehicles to the dealer to achieve, directly or indirectly, a purpose that is prohibited by the Act, or which otherwise is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers.<sup>35</sup>

An applicant or manufacturer is required to maintain for three years records that describe its methods or formula of allocation and distribution of its motor vehicles, and records of its actual allocation and distribution of motor vehicles, to its dealers in this state. As used in this provision, "unfair" includes, without limitation, the refusal or failure to offer to any dealer an equitable supply of new vehicles under its franchise, by model, mix, or colors as the manufacturer offers or allocates to its other same line-make dealers in the state.<sup>36</sup>

An applicant or manufacturer is prohibited from competing (with respect to any activity covered by the franchise agreement) with a franchised dealer of the same line-make located in this state with whom the manufacturer has entered into a franchise agreement.<sup>37</sup>

An applicant or manufacturer is prohibited from selling a motor vehicle to any retail consumer in the state except through a dealer holding a franchise agreement for the line-make that includes the motor vehicle. This does not apply to sales by the applicant or manufacturer to its current employees, employees of companies affiliated by common ownership, charitable not-for-profit organizations, and the federal government.<sup>38</sup>

### **Dealer Licenses in Areas Previously Served**

Any manufacturer who proposes to establish an additional motor vehicle dealership, or relocate an existing dealer, to a location within a community or territory where the same line-make vehicle is presently represented by a franchised dealer, is required to give written notice of its intention to DHSMV.<sup>39</sup>

An existing franchised dealer or dealers has standing to protest a proposed additional or relocated motor vehicle dealer when the existing dealer or dealers have a franchise agreement for the same line-make vehicle to be sold or serviced by the proposed dealer and certain physical location

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<sup>34</sup> Section 320.64, F.S.

<sup>35</sup> Section 320.64(18), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> Section 320.64(23), F.S.

<sup>38</sup> Section 320.64(24), F.S.

<sup>39</sup> Section 320.642(1), F.S.

mileage requirements are met. Specific mileage requirements that are based on county population are as follows:<sup>40</sup>

- In counties with a population of less than 300,000, the existing dealer has standing if the existing dealer of the same line-make has a licensed franchise location within a radius of 20 miles of the location of the proposed dealer.<sup>41</sup>
- In counties with a population over 300,000, an existing dealer has standing if the existing dealer of the same line-make has a licensed franchise location within a radius of 12.5 miles of the location of the proposed additional or relocated motor vehicle dealer.<sup>42</sup>

When a proposed addition or relocation concerns a dealership that performs or is to perform only service and not the sale or lease of new motor vehicles, the proposal is subject to the notice and protest provisions. Standing to protest the addition or relocation of a service-only dealership is limited to those instances in which the applicable mileage requirements based on county populations are met.<sup>43</sup>

The addition or relocation of a service-only dealership is not subject to protest if:

- The applicant for the service-only dealership location is an existing motor vehicle dealer of the same line-make as the proposed additional or relocated service-only dealership;
- There is no existing dealer of the same line-make closer than the applicant to the proposed location of the additional or relocated service-only dealership; and
- The proposed location of the additional or relocated service-only dealership is at least seven miles from all existing motor vehicle dealerships of the same line-make, other than motor vehicle dealerships owned by the applicant.<sup>44</sup>

In determining whether existing franchised dealers are providing adequate representations in the community or territory for the line-make in question in a protest of the proposed addition or relocation of a service-only dealership, DHSMV is authorized to consider certain elements.<sup>45</sup>

If an application for a service-only dealership is granted, DHSMV is required to issue a license which permits only service, and does not permit the selling or leasing of new motor vehicles. If a service-only dealership subsequently seeks to sell new motor vehicles at its location, the notice and protest provisions apply.<sup>46</sup>

### **Restriction on Ownership of Dealerships**

Current law prohibits the following entities from owning or operating a dealership in this state for the sale or service of motor vehicles that are already offered for sale under a franchise agreement with a dealer in this state:<sup>47</sup>

- “Licensees;”

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<sup>40</sup> Section 320.642(3), F.S.

<sup>41</sup> Section 320.642(3)(a)2., F.S.

<sup>42</sup> Section 320.642(3)(b)1., F.S.

<sup>43</sup> Section 320.642(6)(a), F.S.

<sup>44</sup> Section 320.642(6)(b), F.S.

<sup>45</sup> Section 320.642(6)(c), F.S.

<sup>46</sup> Section 320.642(6)(d), F.S.

<sup>47</sup> Section 320.645(1), F.S.



- “Distributors;”
- “Manufacturers;”
- “Agents of a manufacturer or distributor;” or
- “Any parent, subsidiary, common entity, or officer or representative of the licensee.”

In such cases, manufacturers may not be issued a dealer license. However, manufacturers are not deemed to be in violation under the following circumstances:<sup>48</sup>

- When operating a dealership for a temporary period of up to a year, during the transition from one owner of the dealership to another;
- When operating a dealership temporarily for a reasonable period for the exclusive purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who:
  - Are part of a group that has historically been underrepresented in its dealer body; or
  - The licensee “deems lack the resources to purchase or capitalize the dealership outright;
 or
- If DHSMV determines, after an administrative hearing on the matter, at the request of any person, that there is no independent person available in the community or territory to own and operate the dealership in a manner consistent with the public interest.

In any such case, the manufacturer is required to continue to make the dealership available for sale to an independent person at a fair and reasonable price, and approval of the sale may not be unreasonably withheld.

“Independent person” is defined as a person who is not an officer, director, or employee of the manufacturer.

### **Procedure for Administrative Hearings and Adjudications**

A franchised dealer who is directly and adversely affected by the action or conduct of a manufacturer, which is alleged to be in violation of the Act, may seek a declaration and adjudication of its rights by filing one of the following with DHSMV:<sup>49</sup>

- Request for a proceeding and administrative hearing; or
- Written objection or notice of protest.

Hearings are held no sooner than 180 days, or later than 240 days, from the date a written objection or notice of protest is filed, unless extended with good cause by the administrative law judge.<sup>50</sup>

### **Civil Damages**

A franchised dealer who can demonstrate that a violation of, or failure to comply with, any of the provisions of the Act by an applicant or manufacturer will or can adversely and pecuniarily

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<sup>48</sup> *Id.*

<sup>49</sup> Section 320.699(1), F.S.

<sup>50</sup> Section 320.699(2), F.S.

affect the dealer, is entitled to pursue treble damages and attorney's fees in civil court.<sup>51</sup> The manufacturer has the burden to prove that such violation did not occur upon a prima facie showing by the person bringing the action.<sup>52</sup>

### **Injunctions**

A franchised dealer may make an application to any circuit court of the state for a temporary or permanent injunction, or both, restraining any manufacturer from violating or continuing to violate any of the provisions of the Act or from failing or refusing to comply with these statutory requirements.<sup>53</sup>

### **Market Background**

#### *Electric Vehicle Sales*

In the United States revenue in the electric vehicles EV market is projected to reach approximately \$61 billion in 2023, and will result in a market volume of \$139 billion by 2027. The growth of the EV market has been significant despite the COVID-19 pandemic and the resulting supply chain bottlenecks. Despite such challenges and rising production costs as a result of increasing raw material prices, EV sales are still increasing.<sup>54</sup>

As more automakers introduce EVs, they are rethinking the sales process, including selling new vehicles largely, if not fully, online. Historically, dealers rely on automakers for product to fill and move off lots, and the automakers rely on dealers to sell and service the vehicles and customers. How that historical relationship fits into an all-electric future is at the forefront of discussions between automakers and dealers.<sup>55</sup>

#### *Direct-Sales*

According to the National Conference of State Legislatures (NCSL),<sup>56</sup> a number of states have amended dealer franchise laws to either explicitly prohibit or allow for direct-sales of motor vehicles. Most enacted state laws authorizing limited direct-sales appear to be narrowly tailored to apply to Tesla by requiring that a manufacturer either have no existing franchise agreements in a relevant market area and/or have an existing direct-sales operation. Recently, legislation has trended toward providing for new manufacturers to engage in direct-sales.

NCSL provides that:<sup>57</sup>

- Approximately 17 states have laws that expressly ban direct-sales.

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<sup>51</sup> Sections 320.64, 320.694, and 320.697, F.S.

<sup>52</sup> Section 320.697, F.S.

<sup>53</sup> Section 320.695, F.S.

<sup>54</sup> Statista, *Electric Vehicles – United States*, <https://www.statista.com/outlook/mmo/electric-vehicles/united-states> (last visited March 15, 2023).

<sup>55</sup> Michael Wayland, *Carmakers face a crossroads as they work to fit auto dealers into their EV plans*, CNBC (Jan. 28, 2023), [https://www.cnbc.com/2023/01/28/ev-sales-automakers-dealers.html?\\_source=sharebar|email&par=sharebar](https://www.cnbc.com/2023/01/28/ev-sales-automakers-dealers.html?_source=sharebar|email&par=sharebar) (last visited March 15, 2023).

<sup>56</sup> National Conference of State Legislatures, *State Laws on Direct Sales*, <https://www.wispolitics.com/wp-content/uploads/2021/08/State-Laws-on-Direct-Sales.pdf> (last visited March 15, 2023).

<sup>57</sup> *Id.*

- Approximately 18 states have laws that expressly allow for manufacturers to directly sell vehicles to consumers.
- Approximately nine states have laws prohibiting all new direct-sales, while allowing for manufacturers already engaged in direct-sales in the state to maintain a certain number of sales locations.
- Of the states that provide for direct-sales, at least eight states tied their direct-sales provisions to a requirement that the manufacturer exclusively sell non-fossil-fuel, electric, or zero-emission vehicles.
- Most states that provide for the direct-sales model still require a manufacturer to obtain a dealer license or permit to be able to operate in the state. Some states, like Utah, restrict the use of the direct-sales model to only those manufacturers that sell new non-fossil fuel powered vehicles, like those that rely on electricity or hydrogen fuel.
- Other states, like Ohio, provide for the direct-sales model, but only for manufacturers engaged in the market by a certain date and place a limit on the number of dealerships that direct-sale manufacturers may operate within the state.
- In states like Arizona, Tesla’s ability to sell vehicles through its direct-sales model is a result of a favorable judicial or administrative ruling regarding the applicability of state law as opposed to changes in the statutory text. In these states, the question of whether manufacturers may sell vehicles directly to consumers would likely be decided on a case-by-case basis.
- Some states, like Louisiana, have recently enhanced protections for franchise dealerships by explicitly prohibiting direct-sales.

### III. Effect of Proposed Changes:

#### Definitions

The bill expands the definition of “common entity” to mean a person who:

- Is directly or indirectly controlled by or has more than 30 percent of his or her equity interest directly or indirectly owned, beneficially or of record, through any form of ownership structure, by a manufacturer, an importer, a distributor, or a licensee, or an affiliate thereof.
- Has more than 30 percent of his or her equity interest directly or indirectly controlled or owned, beneficially or of record, through any form of ownership structure, by one or more persons who also directly or indirectly control or own, beneficially or of record, more than 30 percent of equity interests of a manufacturer, an importer, a distributor, or a licensee, or an affiliate thereof.

However, the bill provides exceptions for certain common entities of distributors. An entity that would otherwise be considered a common entity of a distributor is not considered a common entity of the distributor if:

- The distributor that the entity is related to was a licensed distributor on March 1, 2023;
- The entity is not a common entity of a manufacturer or importer; and
- The distributor is not, and has never been, a common entity of a manufacturer or importer.

The bill deletes the provision in the definition of “common entity” that includes a person who shares directors or officers or partners with a manufacturer.

The bill defines a "motor vehicle dealer association" as a not-for-profit entity organized under the laws of this state which:

- Is qualified for tax-exempt status under s. 501(c)(6) of the Internal Revenue Code;
- Acts as a trade association that primarily represents the interests of franchised motor vehicle dealers; and
- Has a membership of at least 500 franchised motor vehicle dealers.

The bill expands the definition of "sell," "selling," "sold," "exchange," "retail sales," and "leases," as follows:

- Includes:
  - Accepting a deposit or receiving a payment for the purchase, lease, or other use of a motor vehicle, but does not include facilitating a motor vehicle dealer's acceptance of a deposit or receipt of a payment from a consumer;
  - Accepting a reservation from a retail consumer for a specific motor vehicle identified by a vehicle identification number or other product identifier;
  - Setting the retail price for the purchase, lease, or other use of a motor vehicle;
  - Offering or negotiating with a retail consumer the terms for the purchase, lease, or other use of a motor vehicle;
  - Offering or negotiating with a retail consumer the value of a motor vehicle being traded in as part of the purchase, lease, or other use of a motor vehicle, but does not include a website or other means of electronic communication that identifies to a consumer a conditional trade-in value that is not binding on a motor vehicle dealer;
  - Offering or negotiating with a retail consumer any service contract, extended warranty, vehicle maintenance contract, guaranteed asset protection agreement, or any other vehicle-related products or services in connection with the purchase or lease of a motor vehicle;
- Clarifies that the reference to a "retail customer" refers to a "retail consumer" in the provision describing a 12-month lease, and that the definition does not include administering lease agreements, taking assignments of leases, performing required actions pursuant to such leases, or receiving payments under a lease agreement originated by a motor vehicle dealer; and
- Removes a provision that exempts the establishment of a price for sale under certain circumstances from the definition of sell.

### **Legislative Intent**

The bill adds to the statement of legislative intent that ss. 320.61-320.70, F.S., are intended to apply solely to the licensing of motor vehicles dealers and manufacturers and do not apply to non-motor-vehicle-related businesses.

### **Grounds for Denial, Suspension, or Revocation of a License**

The bill includes additional actions that constitute grounds for which a license of a motor vehicle manufacturer, distributor, or importer may be denied, suspended, or revoked, as follows:

- Conditionally or unconditionally reserving a specific motor vehicle identified by a vehicle identification number or other unique identifier for a specifically named person, except for

purposes of replacing a consumer's vehicle pursuant to chapter 681, F.S., relating to motor vehicle sale warranties;

- Requiring or incentivizing a motor vehicle dealer to sell or lease, or to negotiate the sale or lease of, a specific motor vehicle identified by a vehicle identification number or other unique identifier to a specifically named person; or
- Requiring or incentivizing a motor vehicle dealer to sell or lease a motor vehicle at a specified price or profit margin, or restricting the price at which a motor vehicle dealer may sell a motor vehicle.

The bill revises the term "unfair" for purposes of this provision to include using the number of motor vehicles pre-ordered or reserved by consumers as a factor in determining the allocation of motor vehicles to motor vehicle dealers.

The bill revises the violation criteria related to competition, as follows:

- Specifies that it is a violation for the applicant or licensee to engage in any of the activities of a motor vehicle dealer as defined in s. 320.60, F.S.
- Creates an exception for the remote electronic transmission of a motor vehicle accessory, option, add-on, feature, improvement, or upgrade.

The bill revises the violation criteria relating to selling a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle, as follows:

- Prohibits the applicant or licensee, or a common entity thereof, from selling or leasing a motor vehicle of a line-make manufactured, imported, or distributed by the applicant or licensee.
- Prohibits, for a motor vehicle of such line-make, activation for a fee or sale of, any permanent or temporary motor vehicle accessory, option, add-on, feature, improvement, or upgrade, to any retail consumer in the state except through a motor vehicle dealer properly licensed and holding a franchise agreement for the line-make that includes the motor vehicle.
- Provides an exception if the accessory, option, add-on, feature, improvement, or upgrade is provided directly to the motor vehicle through remote electronic transmission. Requires, if such motor vehicle was sold or leased as new by a franchised motor vehicle dealer in this state within three years before such remote electronic transmission, the applicant or licensee must pay such franchised motor vehicle dealer a percentage of the gross sale price for the accessory, option, add-on, feature, improvement, or upgrade, which is at least commensurate with the licensee's dealer margin structure for the sale of the vehicle to which it was remotely transmitted.

The bill provides that the "dealer margin structure" is calculated by the applicant or licensee subtracting the invoiced vehicle wholesale price from the manufacturer's suggested retail price, then adding to the figure all monetary per-vehicle incentives offered by the applicant or licensee whether or not received by the motor vehicle dealer, and then dividing that sum by the invoiced vehicle wholesale price.

### **Restriction on Ownership of Dealerships**

The bill revises the restriction on ownership of dealerships by licensees, distributors, manufacturers, or agents of a manufacturer or distributor, or any parent, subsidiary, common entity, or officer or representative of the licensee, as follows:

- Adds “importer” to the list of entities that are restricted;
- Specifies that a manufacturer, importer, or distributor may not directly or indirectly own, operate, or control by contract, agreement, or otherwise a motor vehicle dealership for any line-make in this state if the licensee, manufacturer, importer, or distributor has manufactured, imported, or distributed motor vehicles of any line-make which have been offered for sale under a franchise agreement in this state with an independent person.
- Specifies that a person not prohibited from owning, operating, or controlling a motor vehicle dealership may be issued a motor vehicle dealer license.
- Specifies that a person prohibited from owning, operating, or controlling a motor vehicle dealership may not be issued a motor vehicle dealer license.

The bill limits the administrative authority of DHSMV to provide an exception to the ownership requirements in situations where no independent person is available in the community or territory to own and operate a motor vehicle dealership in a manner consistent with the public interest. The bill:

- Specifies that DHSMV’s authority only applies in these situations if the motor vehicle dealership sells motor vehicles of a line-make which, at the time of the hearing, are offered for sale by at least one other existing motor vehicle dealership not owned, operated, or controlled by:
  - The licensee;
  - An officer or employed representative of the licensee;
  - A parent, subsidiary, or common entity of the licensee; or
  - A manufacturer, an importer, or a distributor.
- Provides standing to a motor vehicle dealer association to intervene in any hearing held under this provision.

The bill clarifies that dealerships that are owned and operated under any of the three exceptions to the restriction on dealership ownership requirements must be continually made available for sale to an independent person at a fair and reasonable price.

The bill also provides that neither a distributor nor an affiliate thereof may be licensed as a motor vehicle dealer or own or operate a dealership that sells or services motor vehicles of the line-make of motor vehicles distributed by the distributor.

### **DHSMV Inquiry of Written Complaints**

The bill requires the DHSMV to conduct an inquiry of a manufacturer relating to a written complaint alleging a violation of any provision of the Act is made by a Florida-franchised motor vehicle dealer or a motor vehicle dealer association with at least one member with a current franchise agreement issued by the manufacturer.

DHSMV may use its subpoena power to compel production of, inspect pertinent books, records, letters, and contracts of a licensee, and compel attendance of witnesses at deposition.

DHSMV must commence the inquiry within 30 days after receipt of the written complaint, and may allow the licensee subject of the complaint no more than 60 days to provide a written response. Within, 30 days following the deadline to receive a written response, the DHSMV must provide a written response to the complainant stating whether DHSMV intends to take action against the manufacturer and what action the DHSMV intends to take. Such actions may include license suspension or revocation; denial of a license renewal application; assessment, imposition, levy, and collection of an appropriate civil fine; or instituting a civil action for issuance of an injunction.

If the complainant is a motor vehicle dealer association and the inquiry determines a violation has occurred, the motor vehicle dealer association may seek a declaration and adjudication through an administrative hearing.

The bill takes effect July 1, 2023.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. State Tax or Fee Increases:

None.

##### E. Other Constitutional Issues:

The bill appears to apply only prospectively.<sup>58</sup> Accordingly, it would apply only to contracts entered into after the bill's effective date.<sup>59</sup> Thus, the bill does not appear to

<sup>58</sup> See, e.g., *Yamaha Parts Distributors Inc. v. Ehrman*, 316 So. 2d 557, 559 (“Florida legislation is presumed to operate prospectively unless there exists a showing on the face of the law that retroactive application is intended.”); *Young v. Altenhaus*, 472 So. 2d 1152, 1153 (Fla. 1985) (stating that “in the absence of an explicit legislative expression to the contrary, a substantive law is to be construed as having prospective effect only.”); *Fla. Ins. Guar. Ass’n., Inc. v. Devon Neighborhood Ass’n., Inc.* 67 So. 3d 187, 196 (Fla. 2011) (stating that the inclusion of effective date generally rebuts intent for retroactive application of law).

<sup>59</sup> See, e.g., *Yamaha Parts Distributors Inc. v. Ehrman*, 316 So. 2d 557, 559 (stating that a law affecting contracts which applies prospectively does not apply to contracts entered before the law’s effective date); *State Farm Mut. Auto. Ins. Co. v.*

impair existing contracts in violation of the contracts clauses of the Florida Constitution or the United States Constitution.<sup>60</sup>

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

The bill appears to further prevent manufacturers with established dealer franchises from conducting direct-to-consumer sales or operating a dealership regardless of the type of product being sold. Some manufacturers have indicated an intent to separate their electric vehicle and internal combustion vehicle business models, similar to how they currently separate cars and trucks, and some plan to offer a business model that is a hybrid between the current model and the direct-to-consumer model used by some EV manufacturers.

There is debate about the economic impacts from allowing manufacturers to sell their vehicles directly to consumers or changing current practices. Proponents generally argue that the direct sales model lowers end prices for consumers, increases consumer choice between industry brands, and gives manufacturers greater control over marketing and sales. Opponents argue that the model reduces price competition, lowers consumer safety, and reduces investments in local communities.<sup>61</sup>

The Federal Trade Commission (FTC) has advocated relaxing state franchise laws so that manufacturers can create new, direct-to-consumer business models: "States should allow consumers to choose not only the cars they buy, but also how they buy them."<sup>62</sup>

The FTC has also proposed new rules aimed at combating rising consumer prices.<sup>63</sup> The FTC's new rules propose to ban deceptive advertising in which dealerships market cars as cheaper than they actually intend to sell them for; ban "junk fees for fraudulent add-on products and services that provide no benefit to the consumer"; and require dealerships to disclose all upfront costs and conditions for buying their vehicles.<sup>64</sup>

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*Hassen*, 650 So. 2d 128, 134 (Fla. 2d DCA 1995) (inferring that prospective application of a law affecting contracts means applying it only to contracts arising after the law's effective date).

<sup>60</sup> See Fla. Const. art. I s. 10; U.S. Const. art. I s. 10.

<sup>61</sup> Connecticut General Assembly, Office of Legislative Research, *Arguments For and Against Direct Sales by Motor Vehicle Manufacturers* (Feb. 27, 2019), <https://www.cga.ct.gov/2019/rpt/pdf/2019-R-0088.pdf> (last visited March 15, 2023).

<sup>62</sup> Marina, et al., *Direct-to-consumer auto sales: It's not just about Tesla*, Federal Trade Commission (May 11, 2015), <https://www.ftc.gov/enforcement/competition-matters/2015/05/direct-consumer-auto-sales-its-not-just-about-tesla> (last visited March 15, 2023).

<sup>63</sup> Federal Trade Commission, *FTC Proposes Rule to Ban Junk Fees, Bait-and-Switch Tactics Plaguing Car Buyers* (June 23, 2022), <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-proposes-rule-ban-junk-fees-bait-switch-tactics-plaguing-car-buyers> (last visited March 15, 2023).

<sup>64</sup> *Id.*



NADA opposes these proposed rules: "The FTC's proposed rules would cause great harm to consumers by significantly extending transaction times, making the customer experience much more complex and inefficient, and increasing prices, and NADA again urges the FTC to go back to the drawing board before forcing implementation of a series of unstudied and untested mandates that will have such significant negative impacts on customers."<sup>65</sup>

**C. Government Sector Impact:**

The bill may have a negative indeterminate fiscal impact on DHSMV to the extent that the bill results in increased written complaints against manufacturers. Under the bill, the DHSMV will be required to conduct an inquiry of a manufacturer if a written complaint is made against such manufacturer.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 320.60, 320.605, 320.64, 320.642, 320.645, 320.67, 681.102 and 681.113.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The CS makes numerous changes to the bill. Specifically, it:

- Clarifies that certain entities that would otherwise be considered a common entity of a motor vehicle distributor are not a common entity under specified conditions.
- Revises the definition of “sell,” “selling,” “sold,” “exchange,” “retail sales,” and “leases” to except facilitating a motor vehicle dealer’s acceptance of a deposit or receipt of a payment from a customer, and excludes a website or other electronic communication that identifies certain consumer-related information from the definition.
- Adds to the statement of legislative intent that ss. 320.61-320.70, F.S., are intended to apply solely to the licensing of motor vehicles dealers and manufacturers and do not apply to non-motor-vehicle-related businesses.
- Prohibits a manufacturer from restricting the price that a dealer may sell or lease a vehicle.

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<sup>65</sup> Rosalsky, *supra* note 9.

- Revises the provision relating to the activation for a fee or sale of a motor vehicle accessory, option, add-on, feature, improvement, or upgrade to provide that the manufacturer must pay a Florida-franchised motor vehicle dealer a percentage of the gross sale price for the accessory, option, add-on, feature, improvement, or upgrade which is commensurate with the dealer margin structure applicable to the vehicle.
- Provides that neither a distributor nor an affiliate thereof may be licensed as a motor vehicle dealer or own or operate a dealership that sells or services motor vehicles of the line-make of motor vehicles distributed by the distributor.
- Requires the DHSMV to conduct an inquiry of a manufacturer relating to a written complaint alleging a violation of any provision of the Act is made by a Florida-franchised motor vehicle dealer or a motor vehicle dealer association with at least one member with a current franchise agreement issued by the manufacturer.
- Provides a timeframe for such inquiry and requires a written response to the complainant stating whether DHSMV intends to take action against the manufacturer. If DHSMV determines the manufacturer has violated the Act, DHSMV must take appropriate action against the licensee. If the complainant is a motor vehicle dealer association and the inquiry determines a violation has occurred, the motor vehicle dealer association may seek a declaration and adjudication through an administrative hearing.
- Removes provisions from the bill authorizing motor vehicle dealer associations to seek injunctive relief against manufacturers in specified situations.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2023	.	
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The Committee on Transportation (Avila) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (8), (9), (10), (11), (12), (13), (14), (15), and (16) of section 320.60, Florida Statutes, are redesignated as subsections (9), (11), (12), (13), (15), (18), (10), (16), and (17), respectively, new subsections (8) and (13) are added to that section, and subsection (2) and present subsection (15) of that section are amended, to read:



816554

11 320.60 Definitions for ss. 320.61-320.70.—Whenever used in  
12 ss. 320.61-320.70, unless the context otherwise requires, the  
13 following words and terms have the following meanings:

14 (2) “Common entity” means a person:

15 (a) Who is directly or indirectly either controlled by or  
16 has more than 30 percent of its equity interest directly or  
17 indirectly owned, beneficially or of record, through any form of  
18 ownership structure, by a manufacturer, an importer, a  
19 distributor, or a licensee, or an affiliate thereof.

20 (b) Who has more than 30 percent of its equity interest  
21 directly or indirectly controlled or owned, beneficially or of  
22 record, through any form of ownership structure, by one or more  
23 persons who also directly or indirectly control or own,  
24 beneficially or of record, more than 30 40 percent of the voting  
25 equity interests of a manufacturer, an importer, a distributor,  
26 or a licensee, or an affiliate thereof; or

27 ~~(b) Who shares directors or officers or partners with a~~  
28 ~~manufacturer.~~

29 (c) Notwithstanding the foregoing, an entity that would  
30 otherwise be considered a common entity of a distributor under  
31 paragraph (a) or paragraph (b) because of its relation to a  
32 distributor is not considered a common entity of that  
33 distributor if:

34 1. The distributor that the entity is related to was a  
35 licensed distributor on March 1, 2023;

36 2. The entity is not a common entity of a manufacturer or  
37 importer; and

38 3. The distributor that the entity is related to is not,  
39 and has never been, a common entity of a manufacturer or



816554

40 importer.

41 (8) "Independent person" means a person who is not an  
42 agent, parent, subsidiary, common entity, officer, director, or  
43 employee of the licensee or an employed representative of a  
44 licensee, manufacturer, importer, or distributor.

45 (14) "Motor vehicle dealer association" means a not-for-  
46 profit entity organized under the laws of this state and  
47 qualified as tax-exempt under s. 501(c)(6) of the Internal  
48 Revenue Code which acts as a trade association that primarily  
49 represents the interests of franchised motor vehicle dealers and  
50 has a membership of at least 500 franchised motor vehicle  
51 dealers as defined in s. 320.27(1)(c)1.

52 (16)~~(15)~~ "Sell," "selling," "sold," "exchange," "retail  
53 sales," and "leases" includes:

54 (a) Accepting a deposit or receiving a payment for the  
55 purchase, lease, or other use of a motor vehicle, but does not  
56 include facilitating a motor vehicle dealer's acceptance or a  
57 deposit or receipt of a payment from a consumer;

58 (b) Accepting a reservation from a retail consumer for a  
59 specific motor vehicle identified by a vehicle identification  
60 number or other product identifier;

61 (c) Setting the retail price for the purchase, lease, or  
62 other use of a motor vehicle;

63 (d) Offering or negotiating with a retail consumer terms  
64 for the purchase, lease, financing, or other use of a motor  
65 vehicle;

66 (e) Offering or negotiating with a retail consumer a value  
67 for a motor vehicle being traded in as part of the purchase,  
68 lease, or other use of a motor vehicle, but does not include a



816554

69 website or other means of electronic communication that  
70 identifies to a consumer a conditional trade-in value and that  
71 contains language informing the consumer that the trade-in value  
72 is not binding on any motor vehicle dealer;

73 (f) Offering or negotiating with a retail consumer any  
74 service contract, extended warranty, vehicle maintenance  
75 contract, guaranteed asset protection agreement, or any other  
76 vehicle-related products or services in connection with the  
77 purchase or lease of a motor vehicle;

78 (g) Any transaction where the title of a motor vehicle or a  
79 used motor vehicle is transferred to a retail consumer; ~~or, and~~  
80 also

81 (h) Any retail lease transaction where a retail consumer  
82 customer leases a vehicle for a period of at least 12 months,  
83 but does not include administering lease agreements, taking  
84 assignments of leases, performing required actions pursuant to  
85 such leases, or receiving payments under a lease agreement that  
86 was originated by a motor vehicle dealer. ~~Establishing a price~~  
87 ~~for sale pursuant to s. 320.64(24) does not constitute a sale or~~  
88 lease.

89 Section 2. Section 320.605, Florida Statutes, is amended to  
90 read:

91 320.605 Legislative intent.—It is the intent of the  
92 Legislature to protect the public health, safety, and welfare of  
93 the citizens of the state by regulating the licensing of motor  
94 vehicle dealers and manufacturers, maintaining competition,  
95 providing consumer protection and fair trade and providing  
96 minorities with opportunities for full participation as motor  
97 vehicle dealers. Sections 320.61-320.70 are intended to apply



816554

98 solely to the licensing of motor vehicle dealers and  
99 manufacturers and do not apply to non-motor-vehicle-related  
100 businesses.

101 Section 3. Subsections (18), (23), and (24) of section  
102 320.64, Florida Statutes, are amended to read:

103 320.64 Denial, suspension, or revocation of license;  
104 grounds.—A license of a licensee under s. 320.61 may be denied,  
105 suspended, or revoked within the entire state or at any specific  
106 location or locations within the state at which the applicant or  
107 licensee engages or proposes to engage in business, upon proof  
108 that the section was violated with sufficient frequency to  
109 establish a pattern of wrongdoing, and a licensee or applicant  
110 shall be liable for claims and remedies provided in ss. 320.695  
111 and 320.697 for any violation of any of the following  
112 provisions. A licensee is prohibited from committing the  
113 following acts:

114 (18) The applicant or licensee has established a system of  
115 motor vehicle allocation or distribution or has implemented a  
116 system of allocation or distribution of motor vehicles to one or  
117 more of its franchised motor vehicle dealers which:

118 (a) Reduces or alters allocations or supplies of new motor  
119 vehicles to the dealer to achieve, directly or indirectly, a  
120 purpose that is prohibited by ss. 320.60-320.70;

121 (b) Conditionally or unconditionally reserves a specific  
122 motor vehicle identified by vehicle identification number or  
123 other unique identifier for a specifically named person, except  
124 for purposes of replacing a consumer's vehicle pursuant to  
125 chapter 681;

126 (c) Requires or incentivizes motor vehicle dealers to sell



816554

127 or lease, or to negotiate the sale or lease of, a specific motor  
128 vehicle identified by vehicle identification number or other  
129 unique identifier to a specifically named person;

130 (d) Requires or incentivizes motor vehicle dealers to sell  
131 or lease a motor vehicle at a specified price or profit margin  
132 or restricts the price at which a motor vehicle dealer may sell  
133 or lease a motor vehicle; or

134 (e) Is, ~~or which~~ otherwise ~~is~~ unfair, inequitable,  
135 unreasonably discriminatory, or not supportable by reason and  
136 good cause after considering the equities of the affected motor  
137 vehicles dealer or dealers. As used in this paragraph, "unfair"  
138 includes, but is not limited to, refusing or failing to offer to  
139 any dealer an equitable supply of new vehicles under its  
140 franchise, by model, mix, or color, as the licensee offers or  
141 allocates to its other same line-make dealers in this state or  
142 using the number of motor vehicles preordered or reserved by  
143 consumers as a factor in determining the allocation of motor  
144 vehicles to motor vehicle dealers.

145  
146 An applicant or licensee shall maintain for 3 years records that  
147 describe its methods or formula of allocation and distribution  
148 of its motor vehicles and records of its actual allocation and  
149 distribution of motor vehicles to its motor vehicle dealers in  
150 this state. ~~As used in this subsection, "unfair" includes,~~  
151 ~~without limitation, the refusal or failure to offer to any~~  
152 ~~dealer an equitable supply of new vehicles under its franchise,~~  
153 ~~by model, mix, or colors as the licensee offers or allocates to~~  
154 ~~its other same line-make dealers in the state.~~

155 (23) The applicant or licensee has engaged in any of the





816554

156 activities of a motor vehicle dealer as defined in s. 320.60 or  
157 has competed or is competing with respect to any activity  
158 covered by the franchise agreement with a motor vehicle dealer  
159 of the same line-make located in this state with whom the  
160 applicant or licensee has entered into a franchise agreement,  
161 except as permitted in s. 320.645 or in subsection (24) with  
162 respect to the remote electronic transmission of a motor vehicle  
163 accessory, option, add-on, feature, improvement, or upgrade.

164 (24) The applicant or licensee, or common entity thereof,  
165 has sold or leased a motor vehicle of a line-make to any retail  
166 consumer in this state, or has sold or activated for a fee any  
167 permanent or temporary motor vehicle accessory, option, add-on,  
168 feature, improvement, or upgrade to any retail consumer in the  
169 state, except through a motor vehicle dealer properly licensed  
170 pursuant to s. 320.27 and holding a franchise agreement for the  
171 line-make that includes the motor vehicle. Notwithstanding this  
172 subsection, an applicant, a licensee, or their common entity may  
173 sell or activate for a fee a permanent or temporary motor  
174 vehicle accessory, option, add-on, feature, improvement, or  
175 upgrade for a motor vehicle of a line-make manufactured,  
176 imported, or distributed by the applicant or licensee and  
177 registered in this state only if the accessory, option, add-on,  
178 feature, improvement, or upgrade is provided directly to the  
179 motor vehicle through remote electronic transmission, provided  
180 that if such motor vehicle was sold or leased as new by a  
181 Florida-franchised motor vehicle dealer within the 3-year period  
182 preceding such remote electronic transmission, the applicant or  
183 licensee must pay the Florida-franchised motor vehicle dealer a  
184 percentage of the gross sale price for the accessory, option,



816554

185 add-on, feature, improvement, or upgrade which is at least  
186 commensurate with the dealer margin structure established by the  
187 applicant or licensee for the sale of the vehicle to which the  
188 accessory, option, add-on, feature, improvement, or upgrade was  
189 remotely transmitted. As used in this subsection, the dealer  
190 margin structure is calculated by the applicant or licensee  
191 subtracting the invoiced vehicle wholesale price from the  
192 manufacturer's suggested retail price, then adding to that  
193 figure all monetary per-vehicle incentives offered by the  
194 applicant or licensee whether or not received by the motor  
195 vehicle dealer, and then dividing that sum by the invoiced  
196 vehicle wholesale price. This subsection ~~section~~ does not apply  
197 to sales by the applicant or licensee of motor vehicles to its  
198 current employees, employees of companies affiliated by common  
199 ownership, charitable not-for-profit organizations, and the  
200 Federal Government.

201  
202 A motor vehicle dealer who can demonstrate that a violation of,  
203 or failure to comply with, any of the preceding provisions by an  
204 applicant or licensee will or may adversely and pecuniarily  
205 affect the complaining dealer, shall be entitled to pursue all  
206 of the remedies, procedures, and rights of recovery available  
207 under ss. 320.695 and 320.697.

208 Section 4. Subsection (6) of section 320.642, Florida  
209 Statutes, is amended to read:

210 320.642 Dealer licenses in areas previously served;  
211 procedure.—

212 (6) When a proposed addition or relocation concerns a  
213 dealership that performs or is to perform only service, as



816554

214 defined in s. 320.60 ~~s. 320.60(16)~~, and will not or does not  
215 sell or lease new motor vehicles, as defined in s. 320.60 ~~s.~~  
216 ~~320.60(15)~~, the proposal shall be subject to notice and protest  
217 pursuant to the provisions of this section.

218 (a) Standing to protest the addition or relocation of a  
219 service-only dealership shall be limited to those instances in  
220 which the applicable mileage requirement established in  
221 subparagraphs (3) (a)2. and (3) (b)1. is met.

222 (b) The addition or relocation of a service-only dealership  
223 shall not be subject to protest if:

224 1. The applicant for the service-only dealership location  
225 is an existing motor vehicle dealer of the same line-make as the  
226 proposed additional or relocated service-only dealership;

227 2. There is no existing dealer of the same line-make closer  
228 than the applicant to the proposed location of the additional or  
229 relocated service-only dealership; and

230 3. The proposed location of the additional or relocated  
231 service-only dealership is at least 7 miles from all existing  
232 motor vehicle dealerships of the same line-make, other than  
233 motor vehicle dealerships owned by the applicant.

234 (c) In determining whether existing franchised motor  
235 vehicle dealers are providing adequate representations in the  
236 community or territory for the line-make in question in a  
237 protest of the proposed addition or relocation of a service-only  
238 dealership, the department may consider the elements set forth  
239 in paragraph (2) (b), provided:

240 1. With respect to subparagraph (2) (b)1., only the impact  
241 as it relates to service may be considered;

242 2. Subparagraph (2) (b)3. shall not be considered;



816554

243 3. With respect to subparagraph (2)(b)9., only service  
244 facilities shall be considered; and

245 4. With respect to subparagraph (2)(b)11., only the volume  
246 of service business transacted shall be considered.

247 (d) If an application for a service-only dealership is  
248 granted, the department shall issue a license which permits only  
249 service, as defined in s. 320.60 ~~s. 320.60(16)~~, and does not  
250 permit the selling or leasing of new motor vehicles, as defined  
251 in s. 320.60 ~~s. 320.60(15)~~. If a service-only dealership  
252 subsequently seeks to sell new motor vehicles at its location,  
253 the notice and protest provisions of this section shall apply.

254 Section 5. Subsection (1), paragraph (a) of subsection (2),  
255 and subsection (4) of section 320.645, Florida Statutes, are  
256 amended to read:

257 320.645 Restriction upon ownership of dealership by  
258 licensee.—

259 (1) ~~A~~ No licensee, manufacturer, importer, or distributor,  
260 ~~manufacturer,~~ or agent of the licensee, a manufacturer,  
261 importer, or distributor, or any parent, subsidiary, common  
262 entity, or officer, or employed representative of the licensee,  
263 manufacturer, importer, or distributor may not directly or  
264 indirectly shall own, or operate, or control, by contract,  
265 agreement, or otherwise either directly or indirectly, a motor  
266 vehicle dealership for any line-make in this state if the  
267 licensee, manufacturer, importer, or distributor has  
268 manufactured, imported, or distributed for the sale or service  
269 of motor vehicles of any line-make which have been or are  
270 offered for sale under a franchise agreement with a motor  
271 vehicle dealer in this state with an independent person. Any



816554

272 person who is not prohibited by this section from owning,  
273 operating, or controlling a motor vehicle dealership may be  
274 issued a license pursuant to s. 320.27. Any person prohibited by  
275 this section from owning, operating, or controlling a motor  
276 vehicle dealership. A licensee may not be issued a motor vehicle  
277 dealer license pursuant to s. 320.27. However, a ~~no-such~~  
278 licensee subject to the prohibition in this section is not ~~will~~  
279 be deemed to be in violation of this section:

280 (a) When operating a motor vehicle dealership for a  
281 temporary period, not to exceed 1 year, during the transition  
282 from one owner of the motor vehicle dealership to another;

283 (b) When operating a motor vehicle dealership temporarily  
284 for a reasonable period for the exclusive purpose of broadening  
285 the diversity of its dealer body and enhancing opportunities for  
286 qualified persons who are part of a group that has historically  
287 been underrepresented in its dealer body, or for other qualified  
288 persons who the licensee deems lack the resources to purchase or  
289 capitalize the dealership outright, in a bona fide relationship  
290 with an independent person, other than a licensee or its agent  
291 or affiliate, who has made a significant investment that is  
292 subject to loss in the dealership within the dealership's first  
293 year of operation and who can reasonably expect to acquire full  
294 ownership of the dealership on reasonable terms and conditions;  
295 or

296 (c) If the department determines, after a hearing on the  
297 matter, pursuant to chapter 120, at the request of any person,  
298 that there is no independent person available in the community  
299 or territory to own and operate the motor vehicle dealership in  
300 a manner consistent with the public interest. This paragraph



816554

301 shall apply only if the motor vehicle dealership at issue sells  
302 motor vehicles of a line-make that, at the time of the hearing,  
303 is offered for sale by at least one other existing motor vehicle  
304 dealership not owned, operated, or controlled by the licensee,  
305 an officer or employed representative of the licensee, a parent,  
306 subsidiary, or common entity of the licensee, or a manufacturer,  
307 importer, or distributor. A motor vehicle dealer association has  
308 standing to intervene in any hearing held pursuant to this  
309 subsection.

310  
311 In the any such case of a, ~~the licensee must continue to make~~  
312 ~~the motor vehicle dealership owned or operated pursuant to~~  
313 paragraph (a), paragraph (b), or paragraph (c), the dealership  
314 must be continually made available for sale to an independent  
315 person at a fair and reasonable price. Approval of the sale of  
316 such a motor vehicle dealership to a proposed motor vehicle  
317 dealer shall not be unreasonably withheld.

318 (2) As used in this section, the term:

319 ~~(a) "Independent person" is a person who is not an officer,~~  
320 ~~director, or employee of the licensee.~~

321 (4) Nothing in this chapter shall prohibit a distributor as  
322 defined in s. 320.60 ~~s. 320.60(5)~~ or common entity an affiliate  
323 thereof that is not a manufacturer or importer, a division of a  
324 manufacturer or importer, an entity that is controlled by a  
325 manufacturer or importer, or a common entity of a manufacturer  
326 or importer, and that is not owned, in whole or in part,  
327 directly or indirectly, by a manufacturer or importer, as  
328 defined in s. 320.60 ~~s. 320.60(9)~~, from receiving a license or  
329 licenses as defined in s. 320.27 and owning and operating a



816554

330 motor vehicle dealership or dealerships that sell or service  
331 motor vehicles other than any line-make of motor vehicles  
332 distributed by the distributor. Neither a distributor nor an  
333 affiliate thereof may receive a license pursuant to s. 320.27  
334 for a motor vehicle dealership, or own or operate a motor  
335 vehicle dealership, that sells or services motor vehicles of the  
336 line-make of motor vehicles distributed by the distributor.

337 Section 6. Section 320.67, Florida Statutes, is amended to  
338 read:

339 320.67 Inquiry and inspection of books or other documents  
340 of licensee.-

341 (1) The department shall conduct an inquiry of a licensee  
342 may inspect the pertinent books, records, letters, and contracts  
343 of a licensee relating to any written complaint alleging a  
344 violation of any provision of ss. 320.60-320.70 made to it  
345 against such licensee made by a motor vehicle dealer with a  
346 current franchise agreement issued by the licensee, or a motor  
347 vehicle dealer association with at least one member with a  
348 current franchise agreement issued by the licensee.

349 (2) In the exercise of its duties under this section, the  
350 department is granted and authorized to exercise the power of  
351 subpoena for the purposes of compelling production of and  
352 inspecting pertinent books, records, letters, and contracts of a  
353 licensee and compelling the attendance of witnesses at  
354 deposition and the production of any documentary evidence  
355 necessary to the disposition by it of any written complaint  
356 under this section. The inquiry required by this section must be  
357 commenced within 30 days after receipt of the written complaint.  
358 The department may allow the licensee that is the subject of the



816554

359 complaint no more than 60 days from commencement of the inquiry  
360 to provide a written response. Within 30 days after the deadline  
361 for a written response by the licensee, the department must  
362 provide a written response to the complainant stating whether  
363 the department intends to take action against the licensee under  
364 subsection (3) and, if so, what action the department intends to  
365 take. Any information obtained may not be used against the  
366 licensee as the basis for a criminal prosecution under the laws  
367 of this state.

368 (3) If, as the result of an inquiry conducted under this  
369 section, the department determines that a licensee has violated  
370 ss. 320.60-320.70, the department must take appropriate action  
371 against the licensee, which may include license suspension or  
372 revocation; denial of a license renewal application; assessment,  
373 imposition, levy, and collection of an appropriate civil fine;  
374 or instituting a civil action for issuance of an injunction  
375 pursuant to s. 320.695.

376 (4) If the complainant is a motor vehicle dealer  
377 association and the department's inquiry determines that a  
378 licensee has violated ss. 320.60-320.70, the motor vehicle  
379 dealer association may seek a declaration and adjudication that  
380 the alleged conduct of the licensee violated ss. 320.60-320.70  
381 by filing with the department a request for a proceeding and an  
382 administrative hearing which conforms substantially with the  
383 requirements of ss. 120.569 and 120.57.

384 (5) This section does not alter or affect the rights of a  
385 motor vehicle dealer to bring a claim or action against a  
386 licensee pursuant to any other provision of ss. 320.60-320.70.

387 Section 7. Subsection (13) of section 681.102, Florida





816554

388 Statutes, is amended to read:

389 681.102 Definitions.—As used in this chapter, the term:

390 (13) "Manufacturer" means any person, whether a resident or  
391 nonresident of this state, who manufactures or assembles motor  
392 vehicles, or who manufactures or assembles chassis for  
393 recreational vehicles, or who manufactures or installs on  
394 previously assembled truck or recreational vehicle chassis  
395 special bodies or equipment which, when installed, forms an  
396 integral part of the motor vehicle, or a distributor or an  
397 importer as those terms are defined in s. 320.60 ~~s. 320.60(5),~~  
398 ~~or an importer as defined in s. 320.60(7).~~ A dealer as defined  
399 in s. 320.60 ~~s. 320.60(11)(a)~~ shall not be deemed to be a  
400 manufacturer, distributor, or importer as provided in this  
401 section.

402 Section 8. Section 681.113, Florida Statutes, is amended to  
403 read:

404 681.113 Dealer liability.—Except as provided in ss.  
405 681.103(3) and 681.114(2), nothing in this chapter imposes any  
406 liability on a dealer as defined in s. 320.60 ~~s. 320.60(11)(a)~~  
407 or creates a cause of action by a consumer against a dealer,  
408 except for written express warranties made by the dealer apart  
409 from the manufacturer's warranties. A dealer may not be made a  
410 party defendant in any action involving or relating to this  
411 chapter, except as provided in this section. The manufacturer  
412 shall not charge back or require reimbursement by the dealer for  
413 any costs, including, but not limited to, any refunds or vehicle  
414 replacements, incurred by the manufacturer arising out of this  
415 chapter, in the absence of evidence that the related repairs had  
416 been carried out by the dealer in a manner substantially



816554

417 inconsistent with the manufacturer's published instructions.

418 Section 9. This act shall take effect July 1, 2023.

419

420 ===== T I T L E A M E N D M E N T =====

421 And the title is amended as follows:

422 Delete everything before the enacting clause

423 and insert:

424 A bill to be entitled

425 An act relating to motor vehicle sales; amending s.

426 320.60, F.S.; revising and providing definitions;

427 amending s. 320.605, F.S.; providing legislative

428 intent; amending s. 320.64, F.S.; prohibiting an

429 applicant or a licensee from certain actions in the

430 allocation or distribution of motor vehicles to

431 franchised motor vehicle dealers; revising the

432 definition of the term "unfair"; prohibiting

433 applicants and licensees from engaging in certain

434 activities of motor vehicle dealers; authorizing an

435 applicant, a licensee, or their common entity to sell

436 or activate certain motor vehicle accessories or

437 features through remote electronic transmission;

438 providing for revenue-sharing regarding such sale or

439 activation; providing for the calculation of the

440 dealer margin structure; providing applicability;

441 amending s. 320.642, F.S.; conforming cross

442 references; amending s. 320.645, F.S.; revising

443 provisions prohibiting a manufacturer, a distributor,

444 or an importer from owning, operating, or controlling

445 a motor vehicle dealership in this state; specifying



816554

446 when certain licenses may be and are prohibited from  
447 being issued; revising exceptions to certain  
448 prohibitions on licensees; providing applicability;  
449 providing that a motor vehicle dealer association has  
450 standing to intervene under certain circumstances;  
451 making technical changes; deleting the definition of  
452 the term "independent person"; conforming cross  
453 references; amending s. 320.67, F.S.; requiring the  
454 Department of Highway Safety and Motor Vehicles to  
455 conduct an inquiry relating to certain written  
456 complaints; providing purposes of the department's use  
457 of a subpoena; authorizing the department to allow a  
458 written response to the complaint; requiring the  
459 department to commence the inquiry by a certain  
460 timeframe; requiring the department to provide a  
461 certain written response to the complainant by a  
462 certain date; requiring the department to take certain  
463 action if the department determines that a licensee  
464 violated certain statutes; authorizing a motor vehicle  
465 dealer association to file an administrative action  
466 regarding such complaint in certain circumstances;  
467 providing construction; amending ss. 681.102 and  
468 681.113, F.S.; conforming cross-references; providing  
469 an effective date.

By Senator Avila

39-00232C-23

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1 A bill to be entitled  
 2 An act relating to motor vehicle sales; amending s.  
 3 320.60, F.S.; revising definitions; defining the term  
 4 "motor vehicle dealer association"; amending s.  
 5 320.64, F.S.; prohibiting applicants and licensees  
 6 from reserving a certain motor vehicle for a  
 7 specifically named person; prohibiting applicants and  
 8 licensees from requiring or incentivizing motor  
 9 vehicle dealers to sell or lease particular motor  
 10 vehicles to specifically named persons or at specific  
 11 prices or profit margins; revising the definition of  
 12 the term "unfair"; prohibiting applicants and  
 13 licensees from engaging in certain activities of motor  
 14 vehicle dealers; authorizing applicants, licensees,  
 15 and common entities thereof to sell and activate  
 16 remote electronic transmission of motor vehicle  
 17 accessories, options, add-ons, features, improvements,  
 18 or upgrades; providing procedures for sale or  
 19 activation by applicants, licensees, and their common  
 20 entities of permanent or temporary motor vehicle  
 21 accessories, options, add-ons, features, improvements,  
 22 or upgrades; amending s. 320.645, F.S.; authorizing  
 23 specified entities without independent franchised  
 24 dealers in this state to own, operate, or control a  
 25 motor vehicle dealership in this state; making  
 26 technical changes; revising exceptions for certain  
 27 entities owning or operating a motor vehicle  
 28 dealership in the state; requiring certain dealerships  
 29 to be continually made available for sale under

Page 1 of 13

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

39-00232C-23

2023712\_\_

30 certain conditions; revising the definition of the  
 31 term "independent person"; amending s. 320.695, F.S.;  
 32 authorizing motor vehicle dealer associations to seek  
 33 injunctive relief in the name of the Department of  
 34 Highway Safety and Motor Vehicles; providing that the  
 35 injunction may be issued without having to establish  
 36 irreparable harm from a violation; providing an  
 37 exception for motor vehicle dealer associations  
 38 seeking injunctions; amending s. 320.699, F.S.;  
 39 authorizing motor vehicle dealer associations to seek  
 40 a declaration and adjudication of their members'  
 41 rights with respect to certain alleged violations by  
 42 an applicant or a licensee; providing an exception;  
 43 providing an effective date.  
 44  
 45 Be It Enacted by the Legislature of the State of Florida:  
 46  
 47 Section 1. Present subsections (9), (10), (11), (12), (13),  
 48 and (14) of section 320.60, Florida Statutes, are redesignated  
 49 as subsections (10), (11), (12), (14), (17), and (9),  
 50 respectively, a new subsection (13) is added to that section,  
 51 and subsections (2) and (15) are amended, to read:  
 52 320.60 Definitions for ss. 320.61-320.70.—Whenever used in  
 53 ss. 320.61-320.70, unless the context otherwise requires, the  
 54 following words and terms have the following meanings:  
 55 (2) "Common entity" means a person:  
 56 (a) Who is directly or indirectly ~~either~~ controlled by or  
 57 has more than 30 percent of its equity interest directly or  
 58 indirectly owned, beneficially or of record, through any form of

Page 2 of 13

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

39-00232C-23

2023712\_\_

59 ownership structure, by a manufacturer, an importer, a  
 60 distributor, or a licensee, or an affiliate thereof; or

61 (b) Who has more than 30 percent of its equity interest  
 62 directly or indirectly controlled or owned, beneficially or of  
 63 record, through any form of ownership structure, by one or more  
 64 persons who also directly or indirectly control or own,  
 65 beneficially or of record, more than 30 40 percent of the voting  
 66 equity interests of a manufacturer, an importer, a distributor,  
 67 or a licensee, or an affiliate thereof; ~~or~~

68 ~~(b) Who shares directors or officers or partners with a~~  
 69 ~~manufacturer.~~

70 (13) "Motor vehicle dealer association" means a not-for-  
 71 profit entity organized under the laws of this state and  
 72 qualified as tax-exempt under s. 501(c)(6) of the Internal  
 73 Revenue Code which acts as a trade association that primarily  
 74 represents the interests of franchised motor vehicle dealers and  
 75 has a membership of at least 500 franchised motor vehicle  
 76 dealers as defined in s. 320.27(1)(c)1.

77 (15) "Sell," "selling," "sold," "exchange," "retail sales,"  
 78 and "leases" includes:

79 (a) Accepting a deposit or receiving a payment for the  
 80 purchase, lease, exchange, subscription, or use of a motor  
 81 vehicle;

82 (b) Accepting a reservation from a retail consumer for a  
 83 specific motor vehicle identified by a vehicle identification  
 84 number or other product identifier;

85 (c) Setting the retail price for the purchase, lease, or  
 86 exchange of a motor vehicle;

87 (d) Offering or negotiating with a retail consumer the

39-00232C-23

2023712\_\_

88 terms for the purchase, lease, financing, or exchange of a motor  
 89 vehicle;

90 (e) Negotiating directly with a retail consumer the value  
 91 of a motor vehicle being traded in as part of the purchase,  
 92 lease, exchange, subscription, or use of a motor vehicle;

93 (f) Offering or negotiating directly with a retail consumer  
 94 any service contract, extended warranty, vehicle maintenance  
 95 contract, or guaranteed asset protection agreement or any other  
 96 vehicle-related products or services in connection with the  
 97 purchase, lease, or exchange of a motor vehicle;

98 (g) Any transaction where the title of a motor vehicle or a  
 99 used motor vehicle is transferred to a retail consumer; ~~or, and~~  
 100 also

101 (h) Any retail lease transaction where a retail consumer  
 102 customer leases a vehicle for a period of at least 12 months,  
 103 but the transaction does not include administering lease  
 104 agreements, taking assignments of leases, or receiving payments  
 105 under a lease agreement that was originated by a motor vehicle  
 106 dealer. ~~Establishing a price for sale pursuant to s. 320.64(24)~~  
 107 ~~does not constitute a sale or lease.~~

108 Section 2. Subsections (18), (23), and (24) of section  
 109 320.64, Florida Statutes, are amended to read:

110 320.64 Denial, suspension, or revocation of license;  
 111 grounds.—A license of a licensee under s. 320.61 may be denied,  
 112 suspended, or revoked within the entire state or at any specific  
 113 location or locations within the state at which the applicant or  
 114 licensee engages or proposes to engage in business, upon proof  
 115 that the section was violated with sufficient frequency to  
 116 establish a pattern of wrongdoing, and a licensee or applicant

39-00232C-23 2023712\_\_

117 shall be liable for claims and remedies provided in ss. 320.695  
 118 and 320.697 for any violation of any of the following  
 119 provisions. A licensee is prohibited from committing the  
 120 following acts:

121 (18) The applicant or licensee has established a system of  
 122 motor vehicle allocation or distribution or has implemented a  
 123 system of allocation or distribution of motor vehicles to one or  
 124 more of its franchised motor vehicle dealers which:

125 (a) Reduces or alters allocations or supplies of new motor  
 126 vehicles to the dealer to achieve, directly or indirectly, a  
 127 purpose that is prohibited by ss. 320.60-320.70;

128 (b) Conditionally or unconditionally reserves a specific  
 129 motor vehicle identified by vehicle identification number or  
 130 other unique identifier for a specifically named person;

131 (c) Requires or incentivizes motor vehicle dealers to sell  
 132 or lease, or to negotiate the sale or lease of, a specific motor  
 133 vehicle identified by vehicle identification number or other  
 134 unique identifier to a specifically named person;

135 (d) Requires or incentivizes motor vehicle dealers to sell  
 136 or lease a motor vehicle at a specified price or profit margin;  
 137 or

138 (e) Is, or which otherwise is unfair, inequitable,  
 139 unreasonably discriminatory, or not supportable by reason and  
 140 good cause after considering the equities of the affected motor  
 141 vehicles dealer or dealers. As used in this paragraph, "unfair"  
 142 includes, but is not limited to, refusing or failing to offer to  
 143 any dealer an equitable supply of new vehicles under its  
 144 franchise, by model, mix, or color, as the licensee offers or  
 145 allocates to its other same line-make dealers in this state or

39-00232C-23 2023712\_\_

146 using the number of motor vehicles pre-ordered or reserved by  
 147 consumers as a factor in determining the allocation of motor  
 148 vehicles to motor vehicle dealers.

149

150 An applicant or licensee shall maintain for 3 years records that  
 151 describe its methods or formula of allocation and distribution  
 152 of its motor vehicles and records of its actual allocation and  
 153 distribution of motor vehicles to its motor vehicle dealers in  
 154 this state. ~~As used in this subsection, "unfair" includes,~~  
 155 ~~without limitation, the refusal or failure to offer to any~~  
 156 ~~dealer an equitable supply of new vehicles under its franchise,~~  
 157 ~~by model, mix, or colors as the licensee offers or allocates to~~  
 158 ~~its other same line-make dealers in the state.~~

159 (23) The applicant or licensee has engaged in any of the  
 160 activities of a motor vehicle dealer as defined in s.  
 161 320.60(11)(a) or (15) or has competed or is competing with  
 162 respect to any activity covered by the franchise agreement with  
 163 a motor vehicle dealer of the same line-make located in this  
 164 state with whom the applicant or licensee has entered into a  
 165 franchise agreement, except as permitted in s. 320.645 or in  
 166 subsection (24) with respect to the remote electronic  
 167 transmission of a motor vehicle accessory, option, add-on,  
 168 feature, improvement, or upgrade.

169 (24) The applicant or licensee, or common entity thereof  
 170 has sold or leased a motor vehicle of a line-make manufactured,  
 171 imported, or distributed by the applicant or licensee, or has  
 172 for a motor vehicle of such line-make sold or activated for a  
 173 fee any permanent or temporary motor vehicle accessory, option,  
 174 add-on, feature, improvement, or upgrade, to any retail consumer

39-00232C-23

2023712\_\_

175 in the state except through a motor vehicle dealer properly  
 176 licensed pursuant to s. 320.27 and holding a franchise agreement  
 177 for the line-make that includes the motor vehicle.  
 178 Notwithstanding this subsection, an applicant, licensee, or  
 179 their common entity may sell or activate for a fee a permanent  
 180 or temporary motor vehicle accessory, option, add-on, feature,  
 181 improvement, or upgrade for a motor vehicle of a line-make  
 182 manufactured, imported, or distributed by the applicant or  
 183 licensee and registered in Florida only if the accessory,  
 184 option, add-on, feature, improvement, or upgrade is provided  
 185 directly to the motor vehicle through remote electronic  
 186 transmission, provided that if such motor vehicle was sold or  
 187 leased as new by a Florida franchised motor vehicle dealer  
 188 within the 3-year period preceding such remote electronic  
 189 transmission, then the applicant or licensee must pay such  
 190 Florida franchised motor vehicle dealer a minimum of 10 percent  
 191 of the gross revenue received by the applicant, licensee, or  
 192 common entity for such sale or activation and renewals during  
 193 such 3-year period. The applicant or licensee must provide each  
 194 of its franchised dealers with a quarterly statement of the  
 195 revenue received by the applicant, licensee, or their common  
 196 entity during that quarter for such sales or activations and  
 197 renewals relating to those vehicles sold or leased by the dealer  
 198 during the preceding 3 years. This section does not apply to  
 199 sales by the applicant or licensee of motor vehicles to its  
 200 current employees, employees of companies affiliated by common  
 201 ownership, charitable not-for-profit organizations, and the  
 202 Federal Government.  
 203

Page 7 of 13

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39-00232C-23

2023712\_\_

204 A motor vehicle dealer who can demonstrate that a violation of,  
 205 or failure to comply with, any of the preceding provisions by an  
 206 applicant or licensee will or may adversely and pecuniarily  
 207 affect the complaining dealer, shall be entitled to pursue all  
 208 of the remedies, procedures, and rights of recovery available  
 209 under ss. 320.695 and 320.697.  
 210 Section 3. Subsections (1) and (2) of section 320.645,  
 211 Florida Statutes, are amended to read:  
 212 320.645 Restriction upon ownership of dealership by  
 213 licensee.—  
 214 (1) No licensee, manufacturer, importer, or distributor,  
 215 ~~manufacturer,~~ or agent of the licensee, a manufacturer,  
 216 importer, or distributor, or any parent, subsidiary, common  
 217 entity, ~~or~~ officer, or employed representative of the licensee,  
 218 manufacturer, importer, or distributor shall directly or  
 219 indirectly ~~shall~~ own, ~~or~~ operate, or control by contract,  
 220 agreement, or otherwise either directly or indirectly, a motor  
 221 vehicle dealership for any line-make in this state if the  
 222 licensee, manufacturer, importer, or distributor has  
 223 manufactured, imported, or distributed ~~for the sale or service~~  
 224 ~~of~~ motor vehicles of any line-make which have been or are  
 225 offered for sale under a franchise agreement with a motor  
 226 vehicle dealer in this state with an independent person. Any  
 227 person who is not prohibited by this section from owning,  
 228 operating, or controlling a motor vehicle dealership may be  
 229 issued a license pursuant to s. 320.27. Any person prohibited by  
 230 this section from owning, operating, or controlling a motor  
 231 vehicle dealership. A licensee may not be issued a motor vehicle  
 232 dealer license pursuant to s. 320.27. However, no ~~such~~ licensee

Page 8 of 13

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39-00232C-23

2023712\_\_

232 subject to the prohibition in this section will be deemed to be  
234 in violation of this section:

235 (a) When operating a motor vehicle dealership for a  
236 temporary period, not to exceed 1 year, during the transition  
237 from one owner of the motor vehicle dealership to another;

238 (b) When operating a motor vehicle dealership temporarily  
239 for a reasonable period for the exclusive purpose of broadening  
240 the diversity of its dealer body and enhancing opportunities for  
241 qualified persons who are part of a group that has historically  
242 been underrepresented in its dealer body, or for other qualified  
243 persons who the licensee deems lack the resources to purchase or  
244 capitalize the dealership outright, in a bona fide relationship  
245 with an independent person, other than a licensee or its agent  
246 or affiliate, who has made a significant investment that is  
247 subject to loss in the dealership within the dealership's first  
248 year of operation and who can reasonably expect to acquire full  
249 ownership of the dealership on reasonable terms and conditions;  
250 or

251 (c) If the department determines, after a hearing on the  
252 matter, pursuant to chapter 120, at the request of any person,  
253 that there is no independent person available in the community  
254 or territory to own and operate the motor vehicle dealership in  
255 a manner consistent with the public interest. This subsection  
256 shall only apply if the motor vehicle dealership at issue sells  
257 motor vehicles of a line-make which, at the time of the hearing,  
258 are offered for sale by at least one other existing motor  
259 vehicle dealership not owned, operated, or controlled by the  
260 licensee, an officer or employed representative of the licensee,  
261 a parent, subsidiary, or common entity of the licensee, or a

39-00232C-23

2023712\_\_

262 manufacturer, importer, or distributor. A motor vehicle dealer  
263 association shall have standing to intervene in any hearing held  
264 pursuant to this subsection.

265  
266 In ~~the any such case of a,~~ the licensee must continue to make  
267 the motor vehicle dealership owned or operated pursuant to  
268 paragraph (a), paragraph (b), or paragraph (c), the dealership  
269 must be continually made available for sale to an independent  
270 person at a fair and reasonable price. Approval of the sale of  
271 such a motor vehicle dealership to a proposed motor vehicle  
272 dealer shall not be unreasonably withheld.

273 (2) As used in this chapter section, the term:

274 (a) "Independent person" is a person who is not an agent,  
275 parent, subsidiary, common entity, officer, director, or  
276 employee of the licensee or employed representative of a  
277 licensee, manufacturer, importer, or distributor.

278 (b) "Reasonable terms and conditions" requires that profits  
279 from the dealership are reasonably expected to be sufficient to  
280 allow full ownership of the dealership by the independent person  
281 within a reasonable time period not to exceed 10 years, which  
282 time period may be extended if there is a reasonable basis to do  
283 so and is not being sought to evade the purpose of this section;  
284 that the independent person has sufficient control to permit  
285 acquisition of ownership; and that the relationship cannot be  
286 terminated solely to avoid full ownership. The terms and  
287 conditions are not reasonable if they preclude the independent  
288 person from an expedited purchase of the dealership using a  
289 monetary source other than profits from the dealership's  
290 operation; provided, however, that the independent person must



39-00232C-23

2023712\_\_

291 pay or make an agreement to pay to the licensee any and all  
 292 reasonable prepayment charges and costs, including all  
 293 unrecouped restored losses, associated with the expedited  
 294 purchase of the dealership. For the purpose of this section,  
 295 unrecouped restored losses are moneys that the manufacturer has  
 296 provided to the dealership to restore losses of the dealership  
 297 that the manufacturer has not been paid back through profits of  
 298 the dealership.

299 (c) "Significant investment" means a reasonable amount,  
 300 considering the reasonable capital requirements of the  
 301 dealership, acquired and obtained from sources other than the  
 302 licensee or any of its affiliates and not encumbered by the  
 303 person's interest in the dealership.

304 Section 4. Section 320.695, Florida Statutes, is amended to  
 305 read:

306 320.695 Injunction.—In addition to the remedies provided in  
 307 this chapter, and notwithstanding the existence of any adequate  
 308 remedy at law, the department, ~~or~~ any motor vehicle dealer, or  
 309 any motor vehicle dealer association in the name of the  
 310 department and state and for the use and benefit of the motor  
 311 vehicle dealer or motor vehicle dealer association, is  
 312 authorized to make application to any court of competent  
 313 jurisdiction ~~circuit court of the state~~ for the grant, upon a  
 314 hearing and for cause shown, of a temporary or permanent  
 315 injunction, or both, restraining any person from acting as a  
 316 licensee under the terms of ss. 320.60-320.70 without being  
 317 properly licensed hereunder, or from violating or continuing to  
 318 violate any of the provisions of ss. 320.60-320.70, or from  
 319 failing or refusing to comply with the requirements of this law

Page 11 of 13

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39-00232C-23

2023712\_\_

320 or any rule or regulation adopted hereunder. Such injunction  
 321 shall be issued without bond. A single act in violation of the  
 322 provisions of ss. 320.60-320.70 shall be sufficient to authorize  
 323 the issuance of an injunction without the necessity of  
 324 establishing irreparable harm therefrom. However, this statutory  
 325 remedy shall not be applicable to any motor vehicle dealer after  
 326 final determination by the department under s. 320.641(3).  
 327 Notwithstanding this subsection, a motor vehicle dealer  
 328 association may not seek an injunction pursuant to this section  
 329 for a violation of any provision of ss. 320.61-320.70 against an  
 330 applicant, licensee, manufacturer, importer, or distributor that  
 331 has never, and has no common entity that has ever, manufactured,  
 332 imported, or distributed motor vehicles that were offered for  
 333 sale pursuant to a franchise agreement in this state with an  
 334 independent person.

335 Section 5. Section 320.699, Florida Statutes, is amended to  
 336 read:

337 320.699 Administrative hearings and adjudications;  
 338 procedure.—

339 (1) A motor vehicle dealer, or person with entitlements to  
 340 or in a motor vehicle dealer, who is directly and adversely  
 341 affected by the action or conduct of an applicant or licensee  
 342 which is alleged to be in violation of any provision of ss.  
 343 320.60-320.70, or a motor vehicle dealer association with one or  
 344 more members who are directly and adversely affected by the  
 345 action or conduct of an applicant or licensee which is alleged  
 346 to be in violation of any provision of ss. 320.60-320.70, may  
 347 seek a declaration and adjudication of its rights or the rights  
 348 of its member with respect to the alleged action or conduct of

Page 12 of 13

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39-00232C-23

2023712\_\_

349 the applicant or licensee by+

350 ~~(a)~~ filing with the department a request for a proceeding  
351 and an administrative hearing which conforms substantially with  
352 the requirements of ss. 120.569 and 120.57. Notwithstanding this  
353 subsection, a motor vehicle dealer association may not seek a  
354 declaration or adjudication pursuant to this section for a  
355 violation of any provision of ss. 320.61-320.70 against an  
356 applicant or licensee that has never, and has no common entity  
357 that has ever, manufactured, imported, or distributed motor  
358 vehicles that were offered for sale pursuant to a franchise  
359 agreement in this state with an independent person. ~~or~~

360 (2)(b) A motor vehicle dealer with standing pursuant to s.  
361 320.642(3) may file ~~Filing~~ with the department a written  
362 objection or notice of protest pursuant to s. 320.642.

363 (3)(2) If a written objection or notice of protest is filed  
364 with the department under subsection (2) paragraph (1)(b), a  
365 hearing shall be held not sooner than 180 days nor later than  
366 240 days from the date of filing of the first objection or  
367 notice of protest, unless the time is extended by the  
368 administrative law judge for good cause shown. This subsection  
369 shall govern the schedule of hearings in lieu of any other  
370 provision of law with respect to administrative hearings  
371 conducted by the Department of Highway Safety and Motor Vehicles  
372 or the Division of Administrative Hearings, including  
373 performance standards of state agencies, which may be included  
374 in current and future appropriations acts.

375 Section 6. This act shall take effect July 1, 2023.

The Florida Senate

**APPEARANCE RECORD**

SB 712

3-20-23

Meeting Date

Bill Number or Topic

Transp.

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

TED Senbousek

Phone

306-527-5340

Address

400 N. MERIDIAN ST

Email

ted@ritcheyaautos.com

Street

Tallah FL 32301

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

Glenn Ritchey Auto Group

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

3/20/23

Meeting Date

712

Bill Number or Topic

Transportation

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Sonya Deon Hartley

Phone

954-415-4406

Address

6954 Woodhurst Ct

Email

Street

Jal FL

33312

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

JM Family

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1: [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 712

Bill Number or Topic

3/20/23

Meeting Date

Transportation

Committee

Amendment Barcode (if applicable)

Name

Don Book

Phone

850-224-3427

Address

104 West Jefferson St

Email

don@RLBookPA.com

Street

Tallahassee Fla 32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Automation  
and Palmetto 57

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 712

3/20/2023

Meeting Date

Bill Number or Topic

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Senate Transportation

Committee

Amendment Barcode (if applicable)

Name David Bright

Phone 202-326-5533

Address 1050 K St. NW #650

Email dbright@autosinnovate.org

Street

Washington

City

DC

State

20001

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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3/20/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

712

Bill Number or Topic

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Transportation

Committee

Amendment Barcode (if applicable)

Name Adam Basford

Phone 352 538 4299

Address 516 N Adams St

Email abasford@aif.com

Tallahassee FL 32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Associated Industries of FL

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

3-20-23

Meeting Date

712

Bill Number or Topic

TRANSP

Committee

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Amendment Barcode (if applicable)

Name

Ted Smith

Phone

850-445-0435

Address

400 N. MERIDIAN ST

Street

Email

ted@fla.senate.gov

City

Tallah

State

FL

Zip

32301

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Automobile Dealers Assoc.

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

3/20/23

Meeting Date

913 712

Bill Number or Topic

S. Transportation

Committee

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Amendment Barcode (if applicable)

Name Fred Baggett

Phone 850 591 0915

Address 101 E. College Ave

Street

Email BaggettF@GTLaw.com

Tallahassee FL 32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: Ford

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

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3/20/23  
Meeting Date

712  
Bill Number or Topic

Transportation  
Committee

Amendment Barcode (if applicable)

Name Erica Chant

Phone 305-775-7252

Address 101 e college ave, #502  
Street

Email erica@rubintumbull.com

Tallahassee  
City

FL  
State

32301  
Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Braman Motors

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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3-20-23

Meeting Date

712

Bill Number or Topic

Transportation

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Tracy Mayprnick

Phone 850-445-3000

Address 110 E. Jefferson St.

Email Tracy@themayprnickgroup.com

Street

Tallahassee FL

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

South Florida Auto Dealers

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



**SENATOR Bryan Avila**  
39th District

## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Government Oversight and Accountability, Chair  
Appropriations  
Appropriations Committee on Education  
Appropriations Committee of Health and Human  
Services  
Education Pre-K 12  
Ethics and Elections  
Health Policy  
Select Committee on Resiliency  
Joint Select Committee on Collective Bargaining

March 6, 2023

Honorable Senator Nick DiCeglie,  
Chair  
Committee on Transportation

Honorable Chair DiCeglie:

I respectfully request SB 712 Relating to Motor Vehicle Sales be placed on the next committee agenda.

This bill Prohibiting applicants and licensees from reserving a certain motor vehicle for a specifically named person. Prohibits applicants and licensees from requiring or incentivizing motor vehicle dealers to sell or lease particular motor vehicles to specifically named persons or at specific prices or profit margins. It also prohibits applicants and licensees from engaging in certain activities of motor vehicle dealers; authorizing specified entities without independent franchised dealers in this state to own, operate, or control a motor vehicle dealership in this state.

Sincerely,

A handwritten signature in blue ink that reads "Bryan Avila".

---

Senator Bryan Avila  
Florida Senate, District 39

CC: Rob Vickers, Staff Director  
Marilyn Hudson, Committee Administrative Assistant

REPLY TO:

- 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**Kathleen Passidomo**  
President of the Senate

**Dennis Baxley**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 760

INTRODUCER: Transportation Committee and Senator Perry

SUBJECT: Wrecker and Towing-storage Operators

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Vickers	TR	Fav/CS
2.			CA	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 760 makes changes related to wrecker operator systems and towing-storage operator practices, including allowable fees, credit card acceptance, lien requirements, sale of unclaimed vehicles, and record retention. Specifically, the bill:

- Prohibits the Florida Highway Patrol from excluding a wrecker operator from its wrecker operator system based solely on a prior felony conviction, unless such conviction is for a forcible felony.
- Provides that a towing-storage operator may only charge certain fees.
- Removes allowance of a lien by a towing-storage operator for a local government fee.
- Requires towing-storage operators accept credit cards, debit cards, or electronic payment methods.
- Reduces the timeframe in which a towing-storage operator must send the notice of lien, from seven to three business days, and reduces storage charges that may be charged if a lienor fails to provide this notice, also from seven to three days.
- Increases the timeframe an unclaimed vehicle or vessel three years of age or newer may be sold by a lienor, from 50 days to 65 days from the storage date, and requires the notice of lien must not be sent less than 60 days before the sale.
- Adds a 60-day time limit for a towing company to file a claim on a bond posted by the owner or lienholder for a towed vehicle or vessel to be released.
- Increases the timeframe for the public notice requirement related to sale on an unclaimed vehicle by a towing-storage operator, from ten days to 30 days before the sale.

- Clarifies that the third-party vendor must “substantially” comply with the notification to enforce a lien.
- Prohibits a towing-storage operator from releasing a towed rental vehicle to a renter unless the rental car company that owns the vehicle appoints the renter as an agent of the company.
- Requires a towing-storage operator to make a towed vehicle available for inspection by a non-rental owner, lienholder, insurance company representative, or their agents during regular business hours within three days after receiving a written request to inspect.
- Requires a towing-storage operator accept electronic titles as well as paper titles as evidence of a person’s interest in a vehicle or vessel.
- Requires a towing-storage operator retain all records of vehicles recovered, towed, or stored; all notice publications and certified mailings; and fees imposed under s 713.78, F.S.
- Designates s. 713.78, F.S., as the exclusive remedy for the placement or foreclosure of a storage lien placed on a vehicle or vessel.

The bill does not appear to have a fiscal impact on state or local government.

The bill takes effect July 1, 2023.

## **II. Present Situation:**

### **Florida Highway Patrol Wrecker Operator System**

Section 321.051, F.S. authorizes the Florida Highway Patrol (FHP) to establish a wrecker operator system using qualified, reputable wrecker operators for removal and storage of wrecked or disabled vehicles from a crash scene or for removal and storage of abandoned vehicles. All reputable wrecker operators shall be eligible for use in the system provided their equipment and drivers meet recognized safety qualifications and mechanical standards set by FHP rules. The FHP has established rules for wrecker qualifications that apply only for those wreckers who participate in FHP’s wrecker operator system.<sup>1</sup>

Rule 15B-9.007, F.A.C., provides FHP grounds to deny inclusion of, remove, or suspend a wrecker operator from FHP’s wrecker rotation list. The rule includes removal from the list for “lack of reputability of a wrecker operator,” which means, “FHP cannot trust the wrecker operator to safeguard the welfare and property of the public.” This includes, but is not limited to:

- Conviction of any felony without restoration of the person’s civil rights; and
- Conviction of any felony or first degree misdemeanor directly related to the business of operating a wrecker, regardless of whether civil rights have been restored.

### **County and Municipal Wrecker Operator Systems**

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites. After the establishment of such contracts, the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a

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<sup>1</sup> Chapter 15B-9, F.A.C.

combination of those methods.<sup>2</sup> Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”<sup>3</sup>

Counties must establish maximum rates for the towing of vehicles or vessels removed from private property, as well as the towing and storage of vehicles or vessels removed from the scene of an accident or from where the vehicle or vessel is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.<sup>4</sup>

### **Towing and Wrecker Companies**

Towing and wrecker companies are licensed and regulated by county ordinances in the counties in which they operate.<sup>5</sup> These ordinances may establish license application procedures and fees, maximum towing rates, towing authorization requirements, and penalties for ordinance violations, among other things.<sup>6</sup>

State law does not require towing and wrecker companies to accept specific forms of payment. However, 11 states mandate towing companies accept credit cards as a form of payment.<sup>7</sup>

### **Liens for Recovering, Towing, or Storing Vehicles or Vessels**

Liens are claims against property that evidence a debt, obligation, or duty. Liens can be created by judgment, equity, agreement, or statute. The rights and duties of a lienholder depend on the type of lien created and are generally set out in the order, agreement, or statute creating the lien. Liens on a vehicle or vessel for towing and storage charges are created in statute.<sup>8</sup>

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee, an administrative fee or charge imposed by a county or municipality, and a storage fee (for a vehicle or vessel stored for six hours or more) if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;

<sup>2</sup> Section 323.002(1)(c), F.S.

<sup>3</sup> Section 323.002(1)(a)-(b), F.S.

<sup>4</sup> Sections 125.0103(1)(c) and 166.043(1)(c), F.S. Section 715.07, F.S., relates to the towing and storage of vehicles or vessels illegally parked on *private* property without the consent of the registered owner or other legally authorized person in control of the vehicle.

<sup>5</sup> See, e.g., Hillsborough County, *Towing Companies*, <https://www.hillsboroughcounty.org/businesses/entrepreneur-and-small-business-support/business-licensing/towing-companies> ; Orange County, *Towing Information*, <http://www.orangecountyfl.net/traffictransportation/towingandparkinginformation/towinginformation.aspx#.XHdwbVxKiUk> (last visited March 16, 2023).

<sup>6</sup> See, e.g., Miami-Dade County, *Towing License*, [https://www8.miamidade.gov/global/license.page?Mduid\\_license=lic1495741572333567](https://www8.miamidade.gov/global/license.page?Mduid_license=lic1495741572333567) (last visited March 16, 2023).

<sup>7</sup> Van Cleef, Jacob and Murray, Teresa, *Towing Kickbacks: Only one-third of states ban incentives to property owners, law enforcement* (April 26, 2022), PIRG, <https://pirg.org/resources/towing-kickbacks-only-one-third-states-ban-incentives-property-owners-law-enforcement/> (last visited March 16, 2023).

<sup>8</sup> Section 713.78, F.S.

- The owner, lessor, or authorized person acting on behalf of the owner or lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to enforcing a lien pursuant to s. 83.806, F.S., or for the removal of property left after a lease is vacated under s. 715.104, F.S.; or
- Any law enforcement agency.<sup>9</sup>

A wrecker operator who claims a lien is required to give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle, and all persons claiming a lien, as disclosed by the records in the Department of Highway Safety and Motor Vehicles (DHSMV) or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check.

A towing-storage operator currently must use a third-party service<sup>10</sup> approved by the DHSMV to transmit the notice (as well as any other notices required under s. 713.78, F.S.). If there is no approved service, the operator may mail the notice and provide evidence of compliance upon application for a certificate of title.<sup>11</sup> The notice of lien must be sent by certified mail within seven business days after the date of storage of the vehicle or vessel.<sup>12</sup>

A lienor or its agent may charge an administrative fee<sup>13</sup> to the registered owner or other person claiming a lien against the vehicle or vessel for a release from the lien, not to exceed \$250.<sup>14</sup>

If a law enforcement agency authorized a towing-storage operator to remove a vehicle or vessel, or a towing-storage operator notifies a law enforcement agency of possession of a towed vehicle or vessel,<sup>15</sup> the law enforcement agency where the vehicle or vessel is stored must contact the DHSMV, or the appropriate agency in the state of registration, if known, within 24 hours and provide a full description of the vehicle or vessel.<sup>16</sup> The DHSMV, or appropriate state agency, must search its records to determine the identity of the owner, the company insuring the vehicle

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<sup>9</sup> Section 713.78(2), F.S.

<sup>10</sup> The term “third-party service” is defined in s. 713.78(16)(a), F.S., to mean a qualified business entity that, upon a request submitted through a website by an operator: 1) Accesses the National Motor Vehicle Title Information System records to obtain the last state of record of the vehicle; 2) Accesses the owner, lienholder, and insurer information, as applicable, for a vehicle or vessel from the DHSMV; 3) Electronically generates the notices required of a towing-storage operator through the website; 4) Prints and sends the notices to each owner, lienholder, and insurer of record by certified mail; 5) Electronically returns tracking information or other proof of mailing and delivery of the notices to the towing-storage operator; and 6) Electronically reports to the DHSMV via an electronic data exchange process certain information related to the towing and storage notice.

<sup>11</sup> Section 713.78(16), F.S.

<sup>12</sup> Section 713.78(4)(a) and (c), F.S.

<sup>13</sup> Defined to mean a lien fee or any fee imposed by the lienor or the lienor’s agent for administrative costs added to the amount due for towing and storing the vehicle or vessel. Section 713.78(15)(a), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Within 30 minutes after completion of a tow or removal from private property without the consent of the registered owner or other legally authorized person, a towing-storage operator must notify the municipal police department, or, in an unincorporated area, the sheriff, of the tow or removal, the storage site, the time of the tow or removal, and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. S. 715.07(2)(a)2., F.S.

<sup>16</sup> Section 713.78(4)(b), F.S.



or vessel, and any lienholders and provide the information to the law enforcement agency within 72 hours.<sup>17</sup> The towing-storage operator must obtain such information from the law enforcement agency within 5 days after the date of storage and provide the required notice.<sup>18</sup>

If a towing-storage operator is unsuccessful in locating the name and address of the owner or other lienholder, the operator must, after seven business days after the initial tow or storage, notify the jurisdictional entity where the vehicle or vessel is stored, in writing by certified mail or acknowledged hand delivery, that the operator has been unable to locate the name and address, a physical search of the vehicle or vessel has revealed no ownership information, and a “good faith effort”<sup>19</sup> has been made, including a records check of the DHSMV database and of the National Motor Vehicle Title Information System.<sup>20</sup>

Failure of the towing-storage operator to make a good faith effort to identify the owner or lienholder of the vehicle or vessel precludes the towing-storage operator from assessing any storage charges.<sup>21</sup>

### ***Inspection of Vehicles and Vessels and Release of Property***

Towing and storage operators must permit vehicle or vessel owners, lienholders, insurance company representatives, or agents to inspect a towed vehicle or vessel and release to that person the vehicle, vessel, or all personal property that was not affixed when the vehicle or vessel came into the custody of the towing or storage operator.<sup>22</sup> The authorization of agency must be documented in an original writing acknowledged by the owner before a notary public or someone authorized to administer oaths.

Whoever violates the inspection and release provisions contained in s. 713.78(10), F.S., is guilty of a third degree felony<sup>23</sup> which is punishable by a fine that does not exceed \$5,000<sup>24</sup> and imprisonment that does not exceed five years.<sup>25</sup>

### ***Bond to Release Vehicle or Vessel***

The owner or lienholder of a vehicle or vessel subject to a lien for towing and storage charges may, within ten days after learning of the location of the vehicle or vessel, file a complaint in the county court of the county where the vehicle or vessel is stored to determine whether the vehicle or vessel was wrongfully taken or withheld.<sup>26</sup> The vehicle or vessel must be released if, at any

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Section 713.78(5)(e), F.S., defines the term to mean that the operator has performed a list of “checks” of items such as searching specified databases and information systems; looking for any type of tag, tag record, temporary or regular tag on the vehicle or vessel; or looking for the vehicle identification number or the vessel registration number.

<sup>20</sup> “The National Motor Vehicle Title Information System (NMVTIS) is a system that allows the titling agency to instantly and reliably verify the information on the paper title with the electronic data from the state that issued the title.” See AAMVA, *National Motor Vehicle Title Information System (NMVTIS)*, <https://www.aamva.org/technology/systems/vehicle-systems/nmvtis#> (last visited March 15, 2023).

<sup>21</sup> Section 713.78(9), F.S.

<sup>22</sup> Section 713.78(10), F.S.

<sup>23</sup> Section 713.78(12)(b), F.S.

<sup>24</sup> Section 775.083(1)(c), F.S.

<sup>25</sup> Section 775.082(3)(e), F.S. Additional penalties may apply for certain habitual felony offenders under s. 775.084, F.S.

<sup>26</sup> Section 713.78(5)(a), F.S.

time before sale of the vehicle or vessel, the owner or lienholder posts with the court cash or a surety bond or other adequate security to ensure the payment of charges owed for towing and storage should the owner or lienholder not prevail in litigation.<sup>27</sup> After posting bond, the clerk must issue a notice of the bond to the towing-storage operator and direct the towing-storage operator to release the vehicle or vessel.<sup>28</sup>

Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party. The final order provides immediate payment in full of recovery, towing, and storage fees by the responsible party.<sup>29</sup>

### ***Sale of Vehicles and Vessels and Required Notice***

A towing-storage operator may sell at public sale a stored vehicle or vessel that remains unclaimed, or for which charges for recovery, towing, or storage remain unpaid, after:

- 35 days from the date of storage if the vehicle or vessel is more than 3 years old; or
- 50 days from the date of storage if the vehicle or vessel is 3 years old or less.<sup>30</sup>

If the date of the sale was not included in the notice of claim of lien, the towing-storage operator must send a notice of sale by certified mail, no less than 30 days before the date of the sale, to:

- The person in whose name the vehicle or vessel is registered; and
- All persons claiming a lien on the vehicle or vessel as shown in the records of the DHSMV or any corresponding agency in any other state in which the vehicle is identified as being titled by a records check of the NMVTIS or an equivalent commercially available system.<sup>31</sup>

The towing-storage operator must also publish notice of the time and place of the sale, at least ten days before the date of the sale, in a newspaper of general circulation in the county where the sale will occur.<sup>32</sup>

### ***Proceeds of Sale***

If the owner or lienholder of the vehicle or vessel sold is absent, the proceeds of the sale of the vehicle or vessel, minus any reasonable towing and storage charges owed and costs of the sale, must be deposited with the clerk of the court for the county where the sale occurred.<sup>33</sup> The clerk must hold the proceeds for the benefit of the owner or lienholder whose interest in the vehicle or vessel was destroyed by the sale.<sup>34</sup>

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<sup>27</sup> Section 713.78(5)(b), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 713.78(5)(c), F.S.

<sup>30</sup> Section 713.78(6), F.S.

<sup>31</sup> *Id.*, Exhibits D and E; Section 713.78(6), F.S.

<sup>32</sup> Section 713.78(6), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

### **III. Effect of Proposed Changes:**

The bill defines a “towing-storage operator” as a person who regularly engages in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier. The bill makes numerous changes relating to towing-storage operators.

#### **Florida Highway Patrol Wrecker Operator System**

The bill amends s. 322.051, F.S., to prohibit the Florida Highway Patrol (FHP) from excluding a wrecker operator from FHP’s wrecker operator system or fail to designate him or her as an authorized wrecker operator based solely on a prior felony conviction, unless such conviction was for a forcible felony<sup>35</sup>.

#### **Towing-Storage Operator Fees and Payment**

The bill provides towing-storage operators may charge only the following fees for, or incidental to, the recovery, removal, or storage of a vehicle or vessel:

- A reasonable hazardous waste fee.
- A reasonable fee for a service authorized by county or municipal ordinance in which the service is performed.
- A reasonable fee for service authorized by rule of the DHSMV.
- A lien release administrative fee as set forth in 713.78(15)(a), F.S.
- A reasonable fee or charge that is imposed upon the owner of the vehicle or vessel by a county or local government.

The bill also requires towing-storage operators accept credit cards, debits cards, or electronic payment methods.

#### **Liens for Recovering, Towing, or Storing Vehicles or Vessels**

The bill amends various parts of s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles or vessels, and designates this section as the exclusive remedy for the placement or foreclosure of a storage lien placed on a vehicle or vessel. The bill prohibits ss. 83.09, 83.805, 677.210, F.S., related to placing and foreclosing a lien by a landlord, self-storage facility, or warehouse, being used for placing a lien on a vehicle or vessel.

The bill also:

- Removes the ability of a towing-storage operator to impose a lien for a local government fee. A lien may only be imposed for a reasonable recovery fee, reasonable towing fee, and a reasonable storage fee (unless the vehicle was stored for fewer than six hours).
- Reduces the notification timeframe in which a towing-storage operator must send the notice of lien to the registered owner, the insurance company insuring the vehicle, and all other lienholders, from seven business days to three business days.

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<sup>35</sup> A “forcible felony” is defined as “treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.” Section 776.08, F.S.

- Removes notification requirements in s. 713.78(4)(b), F.S., to determine the owner, insurance company insuring, or any lienholders on the vehicle or vessel. This requirement may no longer be needed due to required use of the third-party service in s. 713.78(16), F.S.
- Reduces the timeframe, within three days instead of seven business days, for a towing-storage operator to notify the jurisdictional entity where the vehicle or vessel is stored, in writing by certified mail, if the towing-storage operator is unsuccessful in locating the name and address of the owner or other lienholder. Removes that this can be done through acknowledged hand delivery.
- Provides that failure to make good faith efforts to *substantially* comply with the requirements of this section or to provide notice claiming a lien precludes the imposition of storage charges against the vehicle or vessel for more than three days of storage (formerly seven days of storage fees for failure to provide notice of a lien).

### ***Inspection of Vehicles and Vessels and Release of Property***

The bill clarifies that rental car owners, lienholders, insurance company representatives, or their agents are authorized to inspect a towed vehicle and release to that person the vehicle or all personal property that was not affixed when the vehicle came into the custody of the towing-storage operator. The bill prohibits a towing company to release a vehicle owned by a rental car company to the renter of the vehicle unless the renter is an agent of the rental car company. Such appointment must be evidenced in an original writing acknowledged by the rental car company before a notary public or other person empowered by law to administer oaths.

For non-rental vehicle or vessel owners, lienholders, insurance company representatives, or their agents, the bill adds that a towing-storage operator must make the vehicle or vessel available for inspection during regular business hours within three business days after receiving a written request to inspect the vehicle or vessel. Additionally, a towing-storage operator must accept a copy of an electronic or a paper title as evidence of a person's interest in a vehicle or vessel.

### ***Bond to Release Vehicle or Vessel***

The bill amends ss. 713.78 and 559.917, F.S., to add towing-storage operators to the process currently used for posting a bond to release a possessory lien claimed by a motor vehicle repair shop. This process is similar to that already in statute for a bond to release vehicle or vessels, but adds that the lienor has 60 days to file suit to recover the bond. The prevailing party in that action may be entitled to damage plus court costs and reasonable attorney fees. If the lienor fails to file suit within 60 days after the posting of such bond, the bond will be discharged by the clerk of court.

This change also allows a person to initiate judicial proceedings against a repair towing-storage operator that does not release or return the vehicle after receiving notice of the bond and a directive to release the vehicle.

### ***Sale of Vehicles and Vessels and Required Notice***

The bill increases the timeframe an unclaimed vehicle or vessel 3 years of age or newer may be sold by a lienor, from 50 days to 65 days. For a vehicle 3 years of age or newer, the notice of lien must be sent no less than 60 days before the sale of the vehicle or vessel. The bill also increases

the timeframe required for publishing notice of the time and place of the sale in a newspaper of general circulation in the county where the sale will occur, from at least 10 days to 30 days before the sale.

***Towing-Storage Operators Record Retention Requirements***

The bill requires towing-storage operators to retain records for all vehicles and vessels recovered, towed, stored, or released for three years. Such records must include:

- All notice publications and certified mailings;
- The purchase price of unclaimed vehicles or vessels sold;
- The names and addresses of unclaimed vehicle or vessel purchasers;
- The names and addresses of persons to which vehicles or vessels were released; and
- All fees imposed under s. 713.78, F.S.

**Effective Date**

The bill takes effect July 1, 2023.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None Identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

The bill may have an indeterminate negative fiscal impact on towing-storage operators due to the increased requirements and limitation on fees that can be charged.

**C. Government Sector Impact:**

The bill does not appear to have a fiscal impact on state or local government.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 321.051, 713.78, 559.917, 83.19, 83.805, 677.210, and 715.07.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Transportation on March 20, 2023:**

The CS makes several changes to the bill. Specifically, the CS:

- Amends the type of fees provided in the bill that are authorized to be charged by a towing-storage operator;
- Requires towing-storage operators to also accept debit cards or electronic payment methods;
- Clarifies that a towing-storage operator must allow a rental vehicle owner to inspect and must release personal property to the owner of the towed rental vehicle in the towing-storage operator's possession;
- Prohibits a towing company from releasing a towed rental vehicle to the vehicle's renter unless the rental company appoints the renter as the company's agent and provides required evidence;
- Requires a towing-storage operator to make a towed vehicle or vessel available to a non-rental owner for inspection during regular business hours within three business days after receiving a written request to inspect the vehicle or vessel;
- Requires towing-storage operators to accept electronic titles as well as paper titles as evidence of a person's interest in a vehicle or vessel; and
- Removes changes made by the bill to the administrative fee authorized in s. 713.78, F.S.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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652044

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
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The Committee on Transportation (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (5) is added to section 321.051,  
Florida Statutes, to read:

321.051 Florida Highway Patrol wrecker operator system;  
penalties for operation outside of system.—

(5) The Division of the Florida Highway Patrol may not  
exclude a wrecker operator from the wrecker operator system or





652044

11 fail to designate him or her as an authorized wrecker operator  
12 based solely on a prior felony conviction, unless such  
13 conviction is for a forcible felony as defined in s. 776.08.

14 Section 2. Subsections (1), (2), (4), (5), (6), (9), and  
15 (10), paragraph (a) of subsection (11), paragraph (a) of  
16 subsection (12), and paragraphs (a), (b), and (d) of subsection  
17 (13) of section 713.78, Florida Statutes, are amended, and  
18 subsections (18) and (19) are added to that section, to read:

19 713.78 Liens for recovering, towing, or storing vehicles  
20 and vessels.—

21 (1) For the purposes of this section, the term:

22 (d)~~(a)~~ "Vehicle" means any mobile item, whether motorized  
23 or not, which is mounted on wheels.

24 (e)~~(b)~~ "Vessel" means every description of watercraft,  
25 barge, and airboat used or capable of being used as a means of  
26 transportation on water, other than a seaplane or a "documented  
27 vessel" as defined in s. 327.02.

28 (c) "Towing-storage operator" means a person who regularly  
29 engages in the business of transporting vehicles or vessels by  
30 wrecker, tow truck, or car carrier.

31 (f)~~(e)~~ "Wrecker" means any truck or other vehicle that  
32 ~~which~~ is used to tow, carry, or otherwise transport motor  
33 vehicles or vessels upon the streets and highways of this state  
34 and ~~which~~ is equipped for that purpose with a boom, winch, car  
35 carrier, or other similar equipment.

36 (b)~~(d)~~ "National Motor Vehicle Title Information System"  
37 means the federally authorized electronic National Motor Vehicle  
38 Title Information System.

39 (a)~~(e)~~ "Equivalent commercially available system" means a



652044

40 service that charges a fee to provide vehicle information and  
41 that at a minimum maintains records from those states  
42 participating in data sharing with the National Motor Vehicle  
43 Title Information System.

44 (2)(a) ~~Whenever~~ A towing-storage operator may charge only  
45 the following fees for, or incidental to, the recovery, removal,  
46 or storage of a vehicle or vessel:

47 1. A reasonable hazardous waste fee.

48 2. A reasonable fee for a service authorized by ordinance  
49 of the county or municipality in which the service is performed.

50 3. A reasonable fee for service authorized by rule of the  
51 Department of Highway Safety and Motor Vehicles.

52 4. A lien release administrative fee as set forth in  
53 paragraph (15)(a).

54 5. A reasonable administrative fee or charge imposed upon  
55 the owner of a vehicle or vessel by a county or municipality.

56 (b) If a towing-storage operator ~~person regularly engaged~~  
57 ~~in the business of transporting vehicles or vessels by wrecker,~~  
58 ~~tow truck, or car carrier~~ recovers, removes, or stores a vehicle  
59 or vessel upon instructions from:

60 1.~~(a)~~ The owner thereof;

61 2.~~(b)~~ The owner or lessor, or a person authorized by the  
62 owner or lessor, of property on which such vehicle or vessel is  
63 wrongfully parked, and the removal is done in compliance with s.  
64 715.07;

65 3.~~(c)~~ The landlord or a person authorized by the landlord,  
66 when such motor vehicle or vessel remained on the premises after  
67 the tenancy terminated and the removal is done in compliance  
68 with s. 83.806 or s. 715.104; or



652044

69           ~~4.(d)~~ Any law enforcement agency,  
70  
71 she or he has ~~shall have~~ a lien on the vehicle or vessel for a  
72 reasonable recovery fee, a reasonable towing fee, for a  
73 ~~reasonable administrative fee or charge imposed by a county or~~  
74 ~~municipality,~~ and ~~for~~ a reasonable storage fee; except that a  
75 storage fee may not be charged if the vehicle or vessel is  
76 stored for fewer than 6 hours.

77           (c) A towing-storage operator must accept credit cards,  
78 debit cards, or electronic payment methods.

79           (4) (a) A towing-storage operator ~~person regularly engaged~~  
80 ~~in the business of recovering, towing, or storing vehicles or~~  
81 ~~vessels~~ who comes into possession of a vehicle or vessel  
82 pursuant to paragraph (2) (b) subsection (2), and who claims a  
83 lien for recovery, towing, or storage services, must ~~shall~~ give  
84 notice, by certified mail, to the registered owner, the  
85 insurance company insuring the vehicle notwithstanding s.  
86 627.736, and all persons claiming a lien thereon, as disclosed  
87 by the records in the Department of Highway Safety and Motor  
88 Vehicles or as disclosed by the records of any corresponding  
89 agency in any other state in which the vehicle is identified  
90 through a records check of the National Motor Vehicle Title  
91 Information System or an equivalent commercially available  
92 system as being titled or registered.

93           ~~(b) Whenever a law enforcement agency authorizes the~~  
94 ~~removal of a vehicle or vessel or whenever a towing service,~~  
95 ~~garage, repair shop, or automotive service, storage, or parking~~  
96 ~~place notifies the law enforcement agency of possession of a~~  
97 ~~vehicle or vessel pursuant to s. 715.07(2)(a)2., the law~~



652044

98 ~~enforcement agency of the jurisdiction where the vehicle or~~  
99 ~~vessel is stored shall contact the Department of Highway Safety~~  
100 ~~and Motor Vehicles, or the appropriate agency of the state of~~  
101 ~~registration, if known, within 24 hours through the medium of~~  
102 ~~electronic communications, giving the full description of the~~  
103 ~~vehicle or vessel. Upon receipt of the full description of the~~  
104 ~~vehicle or vessel, the department shall search its files to~~  
105 ~~determine the owner's name, the insurance company insuring the~~  
106 ~~vehicle or vessel, and whether any person has filed a lien upon~~  
107 ~~the vehicle or vessel as provided in s. 319.27(2) and (3) and~~  
108 ~~notify the applicable law enforcement agency within 72 hours.~~  
109 ~~The person in charge of the towing service, garage, repair shop,~~  
110 ~~or automotive service, storage, or parking place shall obtain~~  
111 ~~such information from the applicable law enforcement agency~~  
112 ~~within 5 days after the date of storage and shall give notice~~  
113 ~~pursuant to paragraph (a). The department may release the~~  
114 ~~insurance company information to the requestor notwithstanding~~  
115 ~~s. 627.736.~~

116       **(b)** ~~(e)~~ The notice of lien must be sent by certified mail to  
117 the registered owner, the insurance company insuring the vehicle  
118 notwithstanding s. 627.736, and all other persons claiming a  
119 lien thereon within 3 ~~7~~ business days, excluding Saturday and  
120 Sunday, after the date of storage of the vehicle or vessel.  
121 ~~However, in no event shall the notice of lien be sent less than~~  
122 ~~30 days before the sale of the vehicle or vessel. The notice~~  
123 must state:

124       1. If the claim of lien is for a vehicle, the last 8 digits  
125 of the vehicle identification number of the vehicle subject to  
126 the lien, or, if the claim of lien is for a vessel, the hull



652044

127 identification number of the vessel subject to the lien, clearly  
128 printed in the delivery address box and on the outside of the  
129 envelope sent to the registered owner and all other persons  
130 claiming an interest in ~~therein~~ or lien on the vehicle or vessel  
131 ~~thereon~~.

132 2. The name, physical address, and telephone number of the  
133 lienor, and the entity name, as registered with the Division of  
134 Corporations, of the business where the towing and storage  
135 occurred, which must also appear on the outside of the envelope  
136 sent to the registered owner and all other persons claiming an  
137 interest in or lien on the vehicle or vessel.

138 3. The fact of possession of the vehicle or vessel.

139 4. The name of the person or entity that authorized the  
140 lienor to take possession of the vehicle or vessel.

141 5. That a lien as provided in paragraph (2)(b) ~~subsection~~  
142 ~~(2)~~ is claimed.

143 6. That charges have accrued and include an itemized  
144 statement of the amount thereof.

145 7. That the lien is subject to enforcement under law and  
146 that the owner or lienholder, if any, has the right to a hearing  
147 as set forth in subsection (5).

148 8. That any vehicle or vessel that remains unclaimed, or  
149 for which the charges for recovery, towing, or storage services  
150 remain unpaid, may be sold free of all prior liens 35 days after  
151 the vehicle or vessel is stored by the lienor if the vehicle or  
152 vessel is more than 3 years of age or 65 ~~50~~ days after the  
153 vehicle or vessel is stored by the lienor if the vehicle or  
154 vessel is 3 years of age or less.

155 9. The address at which the vehicle or vessel is physically



652044

156 located.

157 (c)~~(d)~~ The notice of lien may not be sent to the registered  
158 owner, the insurance company insuring the vehicle or vessel, and  
159 all other persons claiming a lien thereon less than 30 days  
160 before the sale of a the vehicle or vessel that is more than 3  
161 years of age or less than 60 days before the sale of a vehicle  
162 or vessel that is 3 years of age or less.

163 (d)~~(e)~~ If attempts to locate the name and address of the  
164 owner or lienholder prove unsuccessful, the towing-storage  
165 operator shall, after 3 ~~7~~ business days, excluding Saturday and  
166 Sunday, after the initial tow or storage, notify the public  
167 agency of jurisdiction where the vehicle or vessel is stored in  
168 writing by certified mail ~~or acknowledged hand delivery~~ that the  
169 towing-storage company has been unable to locate the name and  
170 address of the owner or lienholder and a physical search of the  
171 vehicle or vessel has disclosed no ownership information and a  
172 good faith effort has been made, including records checks of the  
173 Department of Highway Safety and Motor Vehicles database and the  
174 National Motor Vehicle Title Information System or an equivalent  
175 commercially available system. For purposes of this paragraph  
176 and subsection (9), the term "good faith effort" means that the  
177 following checks have been performed by the company to establish  
178 the prior state of registration and for title:

179 1. A check of the department's database for the owner and  
180 any lienholder.

181 2. A check of the electronic National Motor Vehicle Title  
182 Information System or an equivalent commercially available  
183 system to determine the state of registration when there is not  
184 a current registration record for the vehicle or vessel on file



652044

185 with the department.

186         3. A check of the vehicle or vessel for any type of tag,  
187 tag record, temporary tag, or regular tag.

188         4. A check of the law enforcement report for a tag number  
189 or other information identifying the vehicle or vessel, if the  
190 vehicle or vessel was towed at the request of a law enforcement  
191 officer.

192         5. A check of the trip sheet or tow ticket of the tow truck  
193 operator to determine whether a tag was on the vehicle or vessel  
194 at the beginning of the tow, if a private tow.

195         6. If there is no address of the owner on the impound  
196 report, a check of the law enforcement report to determine  
197 whether an out-of-state address is indicated from driver license  
198 information.

199         7. A check of the vehicle or vessel for an inspection  
200 sticker or other stickers and decals that may indicate a state  
201 of possible registration.

202         8. A check of the interior of the vehicle or vessel for any  
203 papers that may be in the glove box, trunk, or other areas for a  
204 state of registration.

205         9. A check of the vehicle for a vehicle identification  
206 number.

207         10. A check of the vessel for a vessel registration number.

208         11. A check of the vessel hull for a hull identification  
209 number which should be carved, burned, stamped, embossed, or  
210 otherwise permanently affixed to the outboard side of the  
211 transom or, if there is no transom, to the outmost seaboard side  
212 at the end of the hull that bears the rudder or other steering  
213 mechanism.



652044

214 (5) (a) The owner of a vehicle or vessel removed pursuant to  
215 paragraph (2) (b) subsection (2), or any person claiming a lien,  
216 other than the towing-storage operator, within 10 days after the  
217 time she or he has knowledge of the location of the vehicle or  
218 vessel, may file a complaint in the county court of the county  
219 in which the vehicle or vessel is stored to determine whether  
220 her or his property was wrongfully taken or withheld.

221 (b) Regardless of whether a complaint is filed pursuant to  
222 paragraph (a), ~~At~~ any time before the sale of the vehicle or  
223 vessel, an owner or lienholder may have her or his vehicle or  
224 vessel released upon payment of the applicable fee in s. 28.24  
225 and posting with the court a cash or surety bond, or other  
226 adequate security, in accordance with s. 559.917 equal to the  
227 amount of the charges for towing or storage and lot rental  
228 amount to ensure the payment of such charges in the event she or  
229 he does not prevail. A vehicle under this paragraph is  
230 considered a motor vehicle for the purposes of s. 559.917 ~~Upon~~  
231 ~~the posting of the bond and the payment of the applicable fee~~  
232 ~~set forth in s. 28.24, the clerk of the court shall issue a~~  
233 ~~certificate notifying the lienor of the posting of the bond and~~  
234 ~~directing the lienor to release the vehicle or vessel. At the~~  
235 ~~time of such release, after reasonable inspection, she or he~~  
236 ~~shall give a receipt to the towing-storage company reciting any~~  
237 ~~claims she or he has for loss or damage to the vehicle or vessel~~  
238 ~~or the contents thereof.~~

239 (c) Upon determining the respective rights of the parties,  
240 the court may award damages, attorney ~~attorney's~~ fees, and costs  
241 in favor of the prevailing party. In the event the lienor  
242 prevails ~~In any event,~~ the final order must ~~shall~~ provide for





652044

243 immediate payment in full of recovery, towing, and storage fees  
244 by the vehicle or vessel owner or lienholder; or the agency  
245 ordering the tow; or the owner, lessee, or agent thereof of the  
246 property from which the vehicle or vessel was removed.

247 (6) A vehicle or vessel that is stored pursuant to  
248 paragraph (2) (b) subsection (2) and remains unclaimed, or for  
249 which reasonable charges for recovery, towing, or storing remain  
250 unpaid, and any contents not released pursuant to subsection  
251 (10), may be sold by the owner or operator of the storage space  
252 for such towing or storage charge 35 days after the vehicle or  
253 vessel is stored by the lienor if the vehicle or vessel is more  
254 than 3 years of age or 65 ~~50~~ days after the vehicle or vessel is  
255 stored by the lienor if the vehicle or vessel is 3 years of age  
256 or less. The sale must ~~shall~~ be at public sale for cash. If the  
257 date of the sale was not included in the notice required in  
258 subsection (4), notice of the sale must ~~shall~~ be given to the  
259 person in whose name the vehicle or vessel is registered and to  
260 all persons claiming a lien on the vehicle or vessel as shown on  
261 the records of the Department of Highway Safety and Motor  
262 Vehicles or of any corresponding agency in any other state in  
263 which the vehicle is identified through a records check of the  
264 National Motor Vehicle Title Information System or an equivalent  
265 commercially available system as being titled. Notice of the  
266 sale must be sent by certified mail to the owner of the vehicle  
267 or vessel and the person having the recorded lien on the vehicle  
268 or vessel at the address shown on the records of the registering  
269 agency at least 30 days before the sale of the vehicle or  
270 vessel. ~~The notice must have clearly identified and printed, if~~  
271 ~~the claim of lien is for a motor vehicle,~~ The last 8 digits of



652044

272 the vehicle identification number of the ~~motor~~ vehicle subject  
273 to the lien, or, if the claim of lien is for a vessel, the hull  
274 identification number of the vessel subject to the lien, must be  
275 clearly identified and printed in the delivery address box and  
276 on the outside of the envelope sent to the registered owner and  
277 all other persons claiming an interest in ~~therein~~ or lien on the  
278 vehicle or vessel ~~thereon~~. ~~The notice must be sent to the owner~~  
279 ~~of the vehicle or vessel and the person having the recorded lien~~  
280 ~~on the vehicle or vessel at the address shown on the records of~~  
281 ~~the registering agency at least 30 days before the sale of the~~  
282 ~~vehicle or vessel~~. The notice must state the name, physical  
283 address, and telephone number of the lienor, and the vehicle  
284 identification number if the claim of lien is for a vehicle or  
285 the hull identification number if the claim of lien is for a  
286 vessel, all of which must also appear in the return address  
287 section on the outside of the envelope containing the notice of  
288 sale. After diligent search and inquiry, if the name and address  
289 of the registered owner or the owner of the recorded lien cannot  
290 be ascertained, the requirements of notice by mail may be  
291 dispensed with. In addition to the notice by mail, public notice  
292 of the time and place of sale must ~~shall~~ be made by publishing a  
293 notice thereof one time, at least 30 ~~10~~ days before the date of  
294 the sale, in a newspaper of general circulation in the county in  
295 which the sale is to be held. The proceeds of the sale, after  
296 payment of reasonable towing and storage charges, and costs of  
297 the sale, in that order of priority, must ~~shall~~ be deposited  
298 with the clerk of the circuit court for the county if the owner  
299 or lienholder is absent, and the clerk shall hold such proceeds  
300 subject to the claim of the owner or lienholder legally entitled



652044

301 thereto. The clerk is ~~shall be~~ entitled to receive 5 percent of  
302 such proceeds for the care and disbursement thereof. ~~The~~  
303 ~~certificate of title issued under this law shall be discharged~~  
304 ~~of All liens~~ Upon compliance by the towing-storage operator with  
305 this section, all liens on the certificate of title issued under  
306 this section must be discharged unless otherwise provided by  
307 court order. The owner or lienholder may file a complaint after  
308 the vehicle or vessel has been sold in the county court of the  
309 county in which it is stored. Upon determining the respective  
310 rights of the parties, the court may award damages, attorney  
311 fees, and costs in favor of the prevailing party.

312 (9) Failure to make good faith efforts to substantially  
313 comply with the notice requirements of this section ~~or precludes~~  
314 ~~the imposition of any storage charges against the vehicle or~~  
315 ~~vessel. If a lienor fails to provide notice to a person claiming~~  
316 ~~a lien on a vehicle or vessel in accordance with subsection (4),~~  
317 precludes the imposition of storage charges against the vehicle  
318 or vessel ~~the lienor may not charge the person~~ for more than 3 ~~7~~  
319 days of storage, but such failure does not affect charges made  
320 for towing the vehicle or vessel or the priority of liens on the  
321 vehicle or vessel.

322 (10) (a) A towing-storage operator ~~Persons who provide~~  
323 ~~services pursuant to this section~~ shall permit rental car  
324 ~~vehicle or vessel~~ owners, lienholders, insurance company  
325 representatives, or their agents, which agency is evidenced by  
326 an original writing acknowledged by the owner before a notary  
327 public or other person empowered by law to administer oaths, to  
328 inspect the towed vehicle ~~or vessel~~ and shall release to the  
329 owner, lienholder, or agent the vehicle, ~~vessel,~~ or all personal



652044

330 property not affixed to the vehicle ~~or vessel~~ which was in the  
331 vehicle ~~or vessel~~ at the time the vehicle ~~or vessel~~ came into  
332 the custody of the person providing such services. For the  
333 purposes of this paragraph, a rental car agreement does not  
334 constitute evidence that the person who rented a vehicle is an  
335 agent of the owner of the vehicle, and a towing company may not  
336 release a vehicle owned by a rental car company to the person  
337 who rented the vehicle unless the rental car company appoints  
338 the person who rented the vehicle as its agent. Such appointment  
339 must be evidenced in an original writing acknowledged by the  
340 rental car company before a notary public or other person  
341 empowered by law to administer oaths and must authorize the  
342 person to inspect and redeem the towed vehicle.

343 (b) A towing-storage operator shall permit non-rental  
344 vehicle or vessel owners, lienholders, insurance company  
345 representatives, or their agents to inspect the towed vehicle or  
346 vessel. The towing-storage operator must make the vehicle or  
347 vessel available for inspection during regular business hours  
348 within 3 business days after receiving a written request to  
349 inspect the vehicle or vessel and shall release to the owner,  
350 lienholder, or agent the vehicle, vessel, or all personal  
351 property not affixed to the vehicle or vessel which was in the  
352 vehicle or vessel at the time the vehicle or vessel came into  
353 the custody of the towing-storage operator. A towing-storage  
354 operator must accept a copy of either an electronic title or a  
355 paper title as evidence of a person's interest in a vehicle or  
356 vessel.

357 (11) (a) A towing-storage operator ~~Any person regularly~~  
358 ~~engaged in the business of recovering, towing, or storing~~



652044

359 ~~vehicles or vessels~~ who comes into possession of a vehicle or  
360 vessel pursuant to paragraph (2) (b) ~~subsection (2)~~ and who has  
361 complied with ~~the provisions of~~ subsections (4) ~~(3)~~ and (6),  
362 when such vehicle or vessel is to be sold for purposes of being  
363 dismantled, destroyed, or changed in such manner that it is not  
364 the ~~motor~~ vehicle or vessel described in the certificate of  
365 title, must ~~shall~~ report the vehicle to the National Motor  
366 Vehicle Title Information System and apply to the Department of  
367 Highway Safety and Motor Vehicles for a certificate of  
368 destruction. A certificate of destruction, which authorizes the  
369 dismantling or destruction of the vehicle or vessel described  
370 therein, is ~~shall be~~ reassignable a maximum of two times before  
371 dismantling or destruction of the vehicle is ~~shall be~~ required,  
372 and must ~~shall~~ accompany the vehicle or vessel for which it is  
373 issued, when such vehicle or vessel is sold for such purposes,  
374 in lieu of a certificate of title. The application for a  
375 certificate of destruction must include proof of reporting to  
376 the National Motor Vehicle Title Information System and an  
377 affidavit from the applicant that she or he ~~it~~ has complied with  
378 all applicable requirements of this section and, if the vehicle  
379 or vessel is not registered in this state or any other state, by  
380 a statement from a law enforcement officer that the vehicle or  
381 vessel is not reported stolen, and must ~~shall~~ be accompanied by  
382 such documentation as may be required by the department.

383 (12) (a) Any person who violates paragraph (2) (b) ~~any~~  
384 ~~provision of subsection (1), subsection (2),~~ subsection (4),  
385 subsection (5), subsection (6), or subsection (7) is guilty of a  
386 misdemeanor of the first degree, punishable as provided in s.  
387 775.082 or s. 775.083.



652044

388           (13) (a) Upon receipt by the Department of Highway Safety  
389 and Motor Vehicles of written notice from a wrecker operator who  
390 claims a wrecker operator's lien under subparagraph (2) (b) 4.  
391 ~~paragraph (2) (d)~~ for recovery, towing, or storage of an  
392 abandoned vehicle or vessel upon instructions from any law  
393 enforcement agency, for which a certificate of destruction has  
394 been issued under subsection (11) and the vehicle has been  
395 reported to the National Motor Vehicle Title Information System,  
396 the department shall place the name of the registered owner of  
397 that vehicle or vessel on the list of those persons who may not  
398 be issued a license plate or revalidation sticker for any motor  
399 vehicle under s. 320.03(8). If the vehicle or vessel is owned  
400 jointly by more than one person, the name of each registered  
401 owner must ~~shall~~ be placed on the list. The notice of wrecker  
402 operator's lien must ~~shall~~ be submitted on forms provided by the  
403 department and, ~~which must~~ include:

404           1. The name, address, and telephone number of the wrecker  
405 operator.

406           2. The name of the registered owner of the vehicle or  
407 vessel and the address to which the wrecker operator provided  
408 notice of the lien to the registered owner under subsection (4).

409           3. A general description of the vehicle or vessel,  
410 including its color, make, model, body style, and year.

411           4. The vehicle identification number (VIN); registration  
412 license plate number, state, and year; validation decal number,  
413 state, and year; vessel registration number; hull identification  
414 number; or other identification number, as applicable.

415           5. The name of the person or the corresponding law  
416 enforcement agency that requested that the vehicle or vessel be



652044

417 recovered, towed, or stored.

418           6. The amount of the wrecker operator's lien, not to exceed  
419 the amount allowed by paragraph (b).

420           (b) For purposes of this subsection only, the amount of the  
421 wrecker operator's lien for which the department will prevent  
422 issuance of a license plate or revalidation sticker may not  
423 exceed the amount of the charges for recovery, towing, and  
424 storage of the vehicle or vessel for 7 days. These charges may  
425 not exceed the maximum rates imposed by the ordinances of the  
426 respective county or municipality under ss. 125.0103(1)(c) and  
427 166.043(1)(c). This paragraph does not limit the amount of a  
428 wrecker operator's lien claimed under paragraph (2)(b)  
429 ~~subsection (2)~~ or prevent a wrecker operator from seeking civil  
430 remedies for enforcement of the entire amount of the lien, but  
431 limits only that portion of the lien for which the department  
432 will prevent issuance of a license plate or revalidation  
433 sticker.

434           (d) Upon discharge of the amount of the wrecker operator's  
435 lien allowed by paragraph (b), the wrecker operator must issue a  
436 certificate of discharged wrecker operator's lien on forms  
437 provided by the department to each registered owner of the  
438 vehicle or vessel attesting that the amount of the wrecker  
439 operator's lien allowed by paragraph (b) has been discharged.  
440 Upon presentation of the certificate of discharged wrecker  
441 operator's lien by the registered owner, the department must  
442 ~~shall~~ immediately remove the registered owner's name from the  
443 list of those persons who may not be issued a license plate or  
444 revalidation sticker for any motor vehicle under s. 320.03(8),  
445 thereby allowing issuance of a license plate or revalidation



652044

446 sticker. Issuance of a certificate of discharged wrecker  
447 operator's lien under this paragraph does not discharge the  
448 entire amount of the wrecker operator's lien claimed under  
449 paragraph (2)(b) subsection (2), but only certifies to the  
450 department that the amount of the wrecker operator's lien  
451 allowed by paragraph (b), for which the department will prevent  
452 issuance of a license plate or revalidation sticker, has been  
453 discharged.

454 (18) For 3 years, a towing-storage operator must retain  
455 records produced for all vehicles or vessels recovered, towed,  
456 stored, or released, which records must include at least the  
457 following:

458 (a) All notice publications and certified mailings;

459 (b) The purchase price of unclaimed vehicles or vessels  
460 sold;

461 (c) The names and addresses of persons to which vehicles or  
462 vessels were released;

463 (d) The name and address of vehicle or vessel purchasers;  
464 and

465 (e) All fees imposed under this section.

466 (19) This section is the exclusive remedy for the placement  
467 or foreclosure of a storage lien placed on a vehicle or vessel  
468 pursuant to s. 83.19, s. 83.805, or s. 677.210.

469 Section 3. Section 559.917, Florida Statutes, is amended to  
470 read:

471 559.917 Bond to release possessory lien claimed by motor  
472 vehicle repair shop or towing-storage operator.—

473 (1) (a) A customer or a person of record claiming a lien  
474 against a motor vehicle or vessel may obtain the release of the





652044

475 motor vehicle or vessel from any lien claimed under part II of  
476 chapter 713 by a motor vehicle repair shop for repair work  
477 performed under a written repair estimate or by a towing-storage  
478 operator for recovery, towing, or storage charges by filing with  
479 the clerk of the court in the circuit in which the disputed  
480 transaction occurred a cash or surety bond, payable to the  
481 person claiming the lien and conditioned for the payment of any  
482 judgment which may be entered on the lien. The bond must ~~shall~~  
483 be in the amount stated on the notice of lien required under s.  
484 713.78(4) or on the invoice required by s. 559.911, plus accrued  
485 storage charges, if any, less any amount paid to the motor  
486 vehicle repair shop as indicated on the invoice. The customer or  
487 person is ~~shall~~ not ~~be~~ required to institute judicial  
488 proceedings in order to post the bond in the registry of the  
489 court and is ~~shall~~ not ~~be~~ required to use a particular form for  
490 posting the bond unless the clerk provides such form to the  
491 customer or person for filing. Upon the posting of such bond,  
492 the clerk of the court shall automatically issue a certificate  
493 notifying the lienor of the posting of the bond and directing  
494 the lienor to release the motor vehicle or vessel.

495 (b) The lienor has ~~shall have~~ 60 days to file suit to  
496 recover the bond. The prevailing party in that action may be  
497 entitled to damages plus court costs and reasonable attorney  
498 fees. If the lienor fails to file suit within 60 days after the  
499 posting of such bond, the bond must ~~shall~~ be discharged by the  
500 clerk.

501 (2) If ~~the failure of~~ a lienor fails to release or return  
502 to the customer or person the motor vehicle or vessel upon which  
503 any lien is claimed, upon receiving a copy of a certificate



652044

504 giving notice of the posting of the bond and directing release  
505 of the motor vehicle or vessel, the lienor is ~~shall~~ subject ~~the~~  
506 ~~lienor~~ to judicial proceedings which may be brought by the  
507 customer or person to compel compliance with the certificate. If  
508 ~~Whenever~~ a customer or person brings an action to compel  
509 compliance with the certificate, the customer or person must  
510 ~~need only~~ establish the following that:

511 (a) That the bond in the amount on the notice of lien  
512 required under s. 713.78(4) or on of the invoice, plus accrued  
513 storage charges, if any, less any amount paid to the motor  
514 vehicle repair shop as indicated on the invoice, was posted.†

515 (b) That a certificate was issued under pursuant to this  
516 section.;

517 (c) That the motor vehicle repair shop or towing-storage  
518 operator, or any employee or agent thereof who is authorized to  
519 release the motor vehicle or vessel, received a copy of a  
520 certificate issued under pursuant to this section.† and

521 (d) That the motor vehicle repair shop or towing-storage  
522 operator, or an employee or agent thereof who is authorized to  
523 release the motor vehicle or vessel, failed to release the motor  
524 vehicle or vessel.

525  
526 The customer or person of record, claiming a lien against a  
527 motor vehicle or vessel, upon a judgment in her or his favor in  
528 an action brought under this subsection, may be entitled to  
529 damages plus court costs and reasonable attorney fees sustained  
530 by her or him by reason of such wrongful detention or retention.  
531 Upon a judgment in favor of the motor vehicle repair shop or  
532 towing-storage operator, the shop or towing-storage operator may



652044

533 be entitled to reasonable attorney fees.

534 (3) A motor vehicle repair shop or towing-storage operator  
535 ~~that~~, or an employee or agent thereof who is authorized to  
536 release the motor vehicle or vessel, who, upon receiving a copy  
537 of a certificate giving notice of the posting of the bond in the  
538 required amount and directing release of the motor vehicle or  
539 vessel, fails to release or return the property to the customer  
540 or person pursuant to this section commits a misdemeanor of the  
541 second degree, punishable as provided in s. 775.082 or s.  
542 775.083.

543 (4) A customer or person who stops payment on a credit card  
544 charge or a check drawn in favor of a motor vehicle repair shop  
545 on account of an invoice or who fails to post a cash or surety  
546 bond under ~~pursuant to~~ this section is ~~shall be~~ prohibited from  
547 any recourse under this section with respect to the motor  
548 vehicle repair shop.

549 (5) For purposes of this section, the terms "towing-storage  
550 operator" and "vessel" have the same meanings as in s.  
551 713.78(1).

552 Section 4. Subsection (5) is added to section 83.19,  
553 Florida Statutes, to read:

554 83.19 Sale of property distrained.—

555 (5) A lien on a vehicle or vessel, as those terms are  
556 defined in s. 713.78(1), of a tenant or lessee must be  
557 foreclosed pursuant to s. 713.78 and may not be foreclosed under  
558 this chapter.

559 Section 5. Section 83.805, Florida Statutes, is amended to  
560 read:

561 83.805 Lien.—



652044

562           (1) The owner of a self-service storage facility or self-  
563 contained storage unit and the owner's heirs, executors,  
564 administrators, successors, and assigns have a lien upon all  
565 personal property, whether or not owned by the tenant, located  
566 at a self-service storage facility or in a self-contained  
567 storage unit for rent, labor charges, or other charges, present  
568 or future, in relation to the personal property and for expenses  
569 necessary for its preservation or expenses reasonably incurred  
570 in its sale or other disposition pursuant to ss. 83.801-83.809.  
571 The lien provided for in this section attaches as of the date  
572 that the personal property is brought to the self-service  
573 storage facility or as of the date the tenant takes possession  
574 of the self-contained storage unit, and the priority of this  
575 lien shall be the same as provided in s. 83.08; however, in the  
576 event of default, the owner must give notice to persons who hold  
577 perfected security interests under the Uniform Commercial Code  
578 in which the tenant is named as the debtor.

579           (2) A lien on a vehicle or vessel, as those terms are  
580 defined in s. 713.78(1), of a tenant or lessee must be  
581 foreclosed pursuant to s. 713.78 and may not be placed or  
582 foreclosed under this chapter.

583           Section 6. Subsection (10) of section 83.806, Florida  
584 Statutes, is amended to read:

585           83.806 Enforcement of lien.—An owner's lien as provided in  
586 s. 83.805 may be satisfied as follows:

587           (10) If a lien is claimed on property that is a motor  
588 vehicle or a watercraft and rent and other charges related to  
589 the property remain unpaid or unsatisfied for 60 days after the  
590 maturity of the obligation to pay the rent and other charges,



652044

591 the facility or unit owner may sell the property pursuant to s.  
592 713.78 ~~this section~~ or have the property towed. If a motor  
593 vehicle or watercraft is towed, the facility or unit owner is  
594 not liable for the motor vehicle or watercraft or any damages to  
595 the motor vehicle or watercraft once a wrecker takes possession  
596 of the property. The wrecker taking possession of the property  
597 must comply with all notification and sale requirements provided  
598 in s. 713.78.

599 Section 7. Subsection (10) is added to section 677.210,  
600 Florida Statutes, to read:

601 677.210 Enforcement of warehouse's lien.—

602 (10) A lien on a vehicle or vessel, as those terms are  
603 defined in s. 713.78(1), must be placed and foreclosed pursuant  
604 to s. 713.78 and may not be placed or foreclosed under this  
605 chapter.

606 Section 8. Paragraph (a) of subsection (2) of section  
607 715.07, Florida Statutes, is amended to read:

608 715.07 Vehicles or vessels parked on private property;  
609 towing.—

610 (2) The owner or lessee of real property, or any person  
611 authorized by the owner or lessee, which person may be the  
612 designated representative of the condominium association if the  
613 real property is a condominium, may cause any vehicle or vessel  
614 parked on such property without her or his permission to be  
615 removed by a person regularly engaged in the business of towing  
616 vehicles or vessels, without liability for the costs of removal,  
617 transportation, or storage or damages caused by such removal,  
618 transportation, or storage, under any of the following  
619 circumstances:



652044

620 (a) The towing or removal of any vehicle or vessel from  
621 private property without the consent of the registered owner or  
622 other legally authorized person in control of that vehicle or  
623 vessel is subject to substantial compliance with the following  
624 conditions and restrictions:

625 1.a. Any towed or removed vehicle or vessel must be stored  
626 at a site within a 10-mile radius of the point of removal in any  
627 county of 500,000 population or more, and within a 15-mile  
628 radius of the point of removal in any county of fewer than  
629 500,000 population. That site must be open for the purpose of  
630 redemption of vehicles on any day that the person or firm towing  
631 such vehicle or vessel is open for towing purposes, from 8:00  
632 a.m. to 6:00 p.m., and, when closed, shall have prominently  
633 posted a sign indicating a telephone number where the operator  
634 of the site can be reached at all times. Upon receipt of a  
635 telephoned request to open the site to redeem a vehicle or  
636 vessel, the operator shall return to the site within 1 hour or  
637 she or he will be in violation of this section.

638 b. If no towing business providing such service is located  
639 within the area of towing limitations set forth in sub-  
640 subparagraph a., the following limitations apply: any towed or  
641 removed vehicle or vessel must be stored at a site within a 20-  
642 mile radius of the point of removal in any county of 500,000  
643 population or more, and within a 30-mile radius of the point of  
644 removal in any county of fewer than 500,000 population.

645 2. The person or firm towing or removing the vehicle or  
646 vessel shall, within 30 minutes after completion of such towing  
647 or removal, notify the municipal police department or, in an  
648 unincorporated area, the sheriff, of such towing or removal, the



652044

649 storage site, the time the vehicle or vessel was towed or  
650 removed, and the make, model, color, and license plate number of  
651 the vehicle or description and registration number of the vessel  
652 and shall obtain the name of the person at that department to  
653 whom such information was reported and note that name on the  
654 trip record.

655 3. A person in the process of towing or removing a vehicle  
656 or vessel from the premises or parking lot in which the vehicle  
657 or vessel is not lawfully parked must stop when a person seeks  
658 the return of the vehicle or vessel. The vehicle or vessel must  
659 be returned upon the payment of a reasonable service fee of not  
660 more than one-half of the posted rate for the towing or removal  
661 service as provided in subparagraph 6. The vehicle or vessel may  
662 be towed or removed if, after a reasonable opportunity, the  
663 owner or legally authorized person in control of the vehicle or  
664 vessel is unable to pay the service fee. If the vehicle or  
665 vessel is redeemed, a detailed signed receipt must be given to  
666 the person redeeming the vehicle or vessel.

667 4. A person may not pay or accept money or other valuable  
668 consideration for the privilege of towing or removing vehicles  
669 or vessels from a particular location.

670 5. Except for property appurtenant to and obviously a part  
671 of a single-family residence, and except for instances when  
672 notice is personally given to the owner or other legally  
673 authorized person in control of the vehicle or vessel that the  
674 area in which that vehicle or vessel is parked is reserved or  
675 otherwise unavailable for unauthorized vehicles or vessels and  
676 that the vehicle or vessel is subject to being removed at the  
677 owner's or operator's expense, any property owner or lessee, or



652044

678 person authorized by the property owner or lessee, before towing  
679 or removing any vehicle or vessel from private property without  
680 the consent of the owner or other legally authorized person in  
681 control of that vehicle or vessel, must post a notice meeting  
682 the following requirements:

683 a. The notice must be prominently placed at each driveway  
684 access or curb cut allowing vehicular access to the property  
685 within 10 feet from the road, as defined in s. 334.03(22). If  
686 there are no curbs or access barriers, the signs must be posted  
687 not fewer than one sign for each 25 feet of lot frontage.

688 b. The notice must clearly indicate, in not fewer than 2-  
689 inch high, light-reflective letters on a contrasting background,  
690 that unauthorized vehicles will be towed away at the owner's  
691 expense. The words "tow-away zone" must be included on the sign  
692 in not fewer than 4-inch high letters.

693 c. The notice must also provide the name and current  
694 telephone number of the person or firm towing or removing the  
695 vehicles or vessels.

696 d. The sign structure containing the required notices must  
697 be permanently installed with the words "tow-away zone" not  
698 fewer than 3 feet and not more than 6 feet above ground level  
699 and must be continuously maintained on the property for not  
700 fewer than 24 hours before the towing or removal of any vehicles  
701 or vessels.

702 e. The local government may require permitting and  
703 inspection of these signs before any towing or removal of  
704 vehicles or vessels being authorized.

705 f. A business with 20 or fewer parking spaces satisfies the  
706 notice requirements of this subparagraph by prominently





652044

707 displaying a sign stating "Reserved Parking for Customers Only  
708 Unauthorized Vehicles or Vessels Will be Towed Away At the  
709 Owner's Expense" in not fewer than 4-inch high, light-reflective  
710 letters on a contrasting background.

711 g. A property owner towing or removing vessels from real  
712 property must post notice, consistent with the requirements in  
713 sub-subparagraphs a.-f., which apply to vehicles, that  
714 unauthorized vehicles or vessels will be towed away at the  
715 owner's expense.

716

717 A business owner or lessee may authorize the removal of a  
718 vehicle or vessel by a towing company when the vehicle or vessel  
719 is parked in such a manner that restricts the normal operation  
720 of business; and if a vehicle or vessel parked on a public  
721 right-of-way obstructs access to a private driveway the owner,  
722 lessee, or agent may have the vehicle or vessel removed by a  
723 towing company upon signing an order that the vehicle or vessel  
724 be removed without a posted tow-away zone sign.

725 6. Any person or firm that tows or removes vehicles or  
726 vessels and proposes to require an owner, operator, or person in  
727 control or custody of a vehicle or vessel to pay the costs of  
728 towing and storage before redemption of the vehicle or vessel  
729 must file and keep on record with the local law enforcement  
730 agency a complete copy of the current rates to be charged for  
731 such services and post at the storage site an identical rate  
732 schedule and any written contracts with property owners,  
733 lessees, or persons in control of property which authorize such  
734 person or firm to remove vehicles or vessels as provided in this  
735 section.



652044

736           7. Any person or firm towing or removing any vehicles or  
737 vessels from private property without the consent of the owner  
738 or other legally authorized person in control or custody of the  
739 vehicles or vessels shall, on any trucks, wreckers as defined in  
740 s. 713.78(1) ~~s. 713.78(1)(c)~~, or other vehicles used in the  
741 towing or removal, have the name, address, and telephone number  
742 of the company performing such service clearly printed in  
743 contrasting colors on the driver and passenger sides of the  
744 vehicle. The name shall be in at least 3-inch permanently  
745 affixed letters, and the address and telephone number shall be  
746 in at least 1-inch permanently affixed letters.

747           8. Vehicle entry for the purpose of removing the vehicle or  
748 vessel shall be allowed with reasonable care on the part of the  
749 person or firm towing the vehicle or vessel. Such person or firm  
750 shall be liable for any damage occasioned to the vehicle or  
751 vessel if such entry is not in accordance with the standard of  
752 reasonable care.

753           9. When a vehicle or vessel has been towed or removed  
754 pursuant to this section, it must be released to its owner or  
755 person in control or custody within 1 hour after requested. Any  
756 vehicle or vessel owner or person in control or custody has the  
757 right to inspect the vehicle or vessel before accepting its  
758 return, and no release or waiver of any kind which would release  
759 the person or firm towing the vehicle or vessel from liability  
760 for damages noted by the owner or person in control or custody  
761 at the time of the redemption may be required from any vehicle  
762 or vessel owner or person in control or custody as a condition  
763 of release of the vehicle or vessel to its owner or person in  
764 control or custody. A detailed receipt showing the legal name of



652044

765 the company or person towing or removing the vehicle or vessel  
766 must be given to the person paying towing or storage charges at  
767 the time of payment, whether requested or not.

768 Section 9. This act shall take effect July 1, 2023.

769

770 ===== T I T L E A M E N D M E N T =====

771 And the title is amended as follows:

772 Delete everything before the enacting clause

773 and insert:

774 An act relating to wrecker and towing-storage  
775 operators; amending s. 321.051, F.S.; prohibiting the  
776 Division of the Florida Highway Patrol from excluding  
777 wrecker operators from the wrecker operator system or  
778 from being designated as an authorized wrecker  
779 operator based solely on a prior felony conviction;  
780 providing an exception; amending s. 713.78, F.S.;  
781 defining the term "towing-storage operator";  
782 authorizing a towing-storage operator to charge  
783 certain fees; providing that a lien can only be placed  
784 on specified fees; requiring a towing-storage operator  
785 to accept specified payment methods; removing certain  
786 requirements for law enforcement agencies and the  
787 Department of Highway Safety and Motor Vehicles;  
788 revising the timeframe in which certain unclaimed  
789 vehicles or vessels may be sold; specifying that a  
790 vehicle is considered a motor vehicle for certain  
791 purposes; revising the timeframe in which a notice of  
792 lien must be sent for certain unclaimed vehicles or  
793 vessels; revising the timeframe in which a towing-



652044

794 storage operator must provide certain notice to the  
795 public agency of jurisdiction; requiring that such  
796 notice be sent by certified mail; requiring the  
797 posting of a bond or other security be done in a  
798 specified manner; revising the timeframe in which  
799 public notice of the sale of a vehicle or vessel must  
800 be published; restricting the imposition of storage  
801 charges under certain circumstances; revising  
802 provisions regarding permission to inspect vehicle or  
803 vessel; providing means by which a rental car company  
804 may appoint its agent; providing when a vehicle must  
805 be made available for inspection; requiring a towing-  
806 storage operator to maintain certain records for a  
807 specified period of time; providing the exclusive  
808 remedy for certain liens; conforming cross-references;  
809 making technical changes; amending s. 559.917, F.S.;  
810 providing procedures and requirements for acquiring a  
811 bond to release certain liens; providing definitions;  
812 amending ss. 83.19, 83.805, 677.210, and 715.07 F.S.;  
813 conforming provisions to changes made by the act;  
814 amending s. 715.07, F.S.; conforming a cross-  
815 reference; providing an effective date.

By Senator Perry

9-01546-23

2023760\_\_

1 A bill to be entitled  
 2 An act relating to wrecker and towing-storage  
 3 operators; amending s. 321.051, F.S.; prohibiting the  
 4 Division of the Florida Highway Patrol from excluding  
 5 wrecker operators from the wrecker operator system or  
 6 from being designated as an authorized wrecker  
 7 operator based solely on a prior felony conviction;  
 8 providing an exception; amending s. 713.78, F.S.;  
 9 defining the term "towing-storage operator";  
 10 authorizing a towing-storage operator to charge  
 11 certain fees; providing that a lien can be placed on a  
 12 vehicle only for specified fees; requiring a towing-  
 13 storage operator to accept credit cards; deleting  
 14 certain requirements for law enforcement agencies and  
 15 the Department of Highway Safety and Motor Vehicles;  
 16 revising the timeframe in which certain unclaimed  
 17 vehicles or vessels may be sold; revising the  
 18 timeframe in which a notice of lien must be sent for  
 19 certain unclaimed vehicles or vessels; revising the  
 20 timeframe in which a towing-storage operator must  
 21 provide certain notice to the public agency of  
 22 jurisdiction; requiring that such notice be sent by  
 23 certified mail; requiring the posting of a bond or  
 24 other security be done in a specified manner; revising  
 25 the timeframe in which public notice of the sale of a  
 26 vehicle or vessel must be published; restricting the  
 27 imposition of storage charges under certain  
 28 circumstances; revising the amount a lienor may charge  
 29 as an administrative fee; requiring a towing-storage

Page 1 of 26

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9-01546-23

2023760\_\_

30 operator to maintain certain records; providing the  
 31 exclusive remedy for certain liens; making technical  
 32 changes; amending s. 559.917, F.S.; providing  
 33 procedures and requirements for acquiring a bond to  
 34 release certain liens; providing definitions; amending  
 35 ss. 83.09, 83.805, and 677.210, F.S.; conforming  
 36 provisions to changes made by the act; amending s.  
 37 715.07, F.S.; conforming a cross-reference; providing  
 38 an effective date.

39  
 40 Be It Enacted by the Legislature of the State of Florida:

41  
 42 Section 1. Subsection (5) is added to section 321.051,  
 43 Florida Statutes, to read:

44 321.051 Florida Highway Patrol wrecker operator system;  
 45 penalties for operation outside of system.—

46 (5) The Division of the Florida Highway Patrol may not  
 47 exclude a wrecker operator from the wrecker operator system or  
 48 fail to designate him or her as an authorized wrecker operator  
 49 based solely on a prior felony conviction, unless such  
 50 conviction is for a forcible felony as defined in s. 776.08.

51 Section 2. Subsections (1), (2), (4), (5), (6), and (9),  
 52 paragraph (a) of subsection (11), paragraph (a) of subsection  
 53 (12), paragraphs (a), (b), and (d) of subsection (13), and  
 54 paragraph (a) of subsection (15) of section 713.78, Florida  
 55 Statutes, are amended, and subsections (18) and (19) are added  
 56 to that section, to read:

57 713.78 Liens for recovering, towing, or storing vehicles  
 58 and vessels.—

Page 2 of 26

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9-01546-23

2023760\_\_

59 (1) For the purposes of this section, the term:  
 60 (d)(a) "Vehicle" means any mobile item, whether motorized  
 61 or not, which is mounted on wheels.  
 62 (e)(b) "Vessel" means every description of watercraft,  
 63 barge, and airboat used or capable of being used as a means of  
 64 transportation on water, other than a seaplane or a "documented  
 65 vessel" as defined in s. 327.02.  
 66 (c) "Towing-storage operator" means a person who regularly  
 67 engages in the business of transporting vehicles or vessels by  
 68 wrecker, tow truck, or car carrier.  
 69 (f)(e) "Wrecker" means any truck or other vehicle that  
 70 which is used to tow, carry, or otherwise transport motor  
 71 vehicles or vessels upon the streets and highways of this state  
 72 and which is equipped for that purpose with a boom, winch, car  
 73 carrier, or other similar equipment.  
 74 (b)(d) "National Motor Vehicle Title Information System"  
 75 means the federally authorized electronic National Motor Vehicle  
 76 Title Information System.  
 77 (a)(e) "Equivalent commercially available system" means a  
 78 service that charges a fee to provide vehicle information and  
 79 that at a minimum maintains records from those states  
 80 participating in data sharing with the National Motor Vehicle  
 81 Title Information System.  
 82 (2) (a) A towing-storage operator may charge only the  
 83 following fees for, or incidental to, the recovery, removal, or  
 84 storage of a vehicle or vessel:  
 85 1. A reasonable recovery fee.  
 86 2. A reasonable towing fee.  
 87 3. A reasonable storage fee.

Page 3 of 26

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9-01546-23

2023760\_\_

88 4. A reasonable fee or charge that is imposed by a county  
 89 or municipality.  
 90 (b) If a towing-storage operator ~~Whenever a person~~  
 91 ~~regularly engaged in the business of transporting vehicles or~~  
 92 ~~vessels by wrecker, tow truck, or car carrier~~ recovers, removes,  
 93 or stores a vehicle or vessel upon instructions from:  
 94 1.(a) The owner thereof;  
 95 2.(b) The owner or lessor, or a person authorized by the  
 96 owner or lessor, of property on which such vehicle or vessel is  
 97 wrongfully parked, and the removal is done in compliance with s.  
 98 715.07;  
 99 3.(e) The landlord or a person authorized by the landlord,  
 100 when such motor vehicle or vessel remained on the premises after  
 101 the tenancy terminated and the removal is done in compliance  
 102 with s. 83.806 or s. 715.104; or  
 103 4.(d) Any law enforcement agency,  
 104  
 105 she or he ~~has shall have~~ a lien on the vehicle or vessel for a  
 106 reasonable recovery fee, a reasonable towing fee, for a  
 107 ~~reasonable administrative fee or charge imposed by a county or~~  
 108 ~~municipality,~~ and ~~for~~ a reasonable storage fee; except that a  
 109 storage fee may not be charged if the vehicle or vessel is  
 110 stored for fewer than 6 hours.  
 111 (c) A towing-storage operator must accept credit cards, as  
 112 that term is defined in s. 658.995(2) (a).  
 113 (4) (a) A towing-storage operator ~~person regularly engaged~~  
 114 ~~in the business of recovering, towing, or storing vehicles or~~  
 115 ~~vessels~~ who comes into possession of a vehicle or vessel  
 116 pursuant to paragraph (2) (b) ~~subsection (2)~~, and who claims a

Page 4 of 26

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9-01546-23 2023760\_\_  
 117 lien for recovery, towing, or storage services, must ~~shall~~ give  
 118 notice, by certified mail, to the registered owner, the  
 119 insurance company insuring the vehicle notwithstanding s.  
 120 627.736, and all persons claiming a lien thereon, as disclosed  
 121 by the records in the Department of Highway Safety and Motor  
 122 Vehicles or as disclosed by the records of any corresponding  
 123 agency in any other state in which the vehicle is identified  
 124 through a records check of the National Motor Vehicle Title  
 125 Information System or an equivalent commercially available  
 126 system as being titled or registered.

~~(b) Whenever a law enforcement agency authorizes the  
 128 removal of a vehicle or vessel or whenever a towing service,  
 129 garage, repair shop, or automotive service, storage, or parking  
 130 place notifies the law enforcement agency of possession of a  
 131 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
 132 enforcement agency of the jurisdiction where the vehicle or  
 133 vessel is stored shall contact the Department of Highway Safety  
 134 and Motor Vehicles, or the appropriate agency of the state of  
 135 registration, if known, within 24 hours through the medium of  
 136 electronic communications, giving the full description of the  
 137 vehicle or vessel. Upon receipt of the full description of the  
 138 vehicle or vessel, the department shall search its files to  
 139 determine the owner's name, the insurance company insuring the  
 140 vehicle or vessel, and whether any person has filed a lien upon  
 141 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
 142 notify the applicable law enforcement agency within 72 hours.  
 143 The person in charge of the towing service, garage, repair shop,  
 144 or automotive service, storage, or parking place shall obtain  
 145 such information from the applicable law enforcement agency~~

9-01546-23 2023760\_\_  
 146 ~~within 5 days after the date of storage and shall give notice~~  
 147 ~~pursuant to paragraph (a). The department may release the~~  
 148 ~~insurance company information to the requester notwithstanding~~  
 149 ~~s. 627.736.~~

(b)(e) The notice of lien must be sent by certified mail to  
 151 the registered owner, the insurance company insuring the vehicle  
 152 notwithstanding s. 627.736, and all other persons claiming a  
 153 lien thereon within 3 7 business days, excluding Saturday and  
 154 Sunday, after the date of storage of the vehicle or vessel.  
 155 ~~However, in no event shall the notice of lien be sent less than~~  
 156 ~~30 days before the sale of the vehicle or vessel.~~ The notice  
 157 must state:

1. If the claim of lien is for a vehicle, the last 8 digits  
 159 of the vehicle identification number of the vehicle subject to  
 160 the lien, or, if the claim of lien is for a vessel, the hull  
 161 identification number of the vessel subject to the lien, clearly  
 162 printed in the delivery address box and on the outside of the  
 163 envelope sent to the registered owner and all other persons  
 164 claiming an interest in therein or lien on the vehicle or vessel  
 165 thereon.

2. The name, physical address, and telephone number of the  
 167 lienor, and the entity name, as registered with the Division of  
 168 Corporations, of the business where the towing and storage  
 169 occurred, which must also appear on the outside of the envelope  
 170 sent to the registered owner and all other persons claiming an  
 171 interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the  
 173 lienor to take possession of the vehicle or vessel.  
 174

9-01546-23

2023760\_\_

175 5. That a lien as provided in paragraph (2) (b) ~~subsection~~  
 176 ~~(2)~~ is claimed.

177 6. That charges have accrued and include an itemized  
 178 statement of the amount thereof.

179 7. That the lien is subject to enforcement under law and  
 180 that the owner or lienholder, if any, has the right to a hearing  
 181 as set forth in subsection (5).

182 8. That any vehicle or vessel that remains unclaimed, or  
 183 for which the charges for recovery, towing, or storage services  
 184 remain unpaid, may be sold free of all prior liens 35 days after  
 185 the vehicle or vessel is stored by the lienor if the vehicle or  
 186 vessel is more than 3 years of age or 65 ~~50~~ days after the  
 187 vehicle or vessel is stored by the lienor if the vehicle or  
 188 vessel is 3 years of age or less.

189 9. The address at which the vehicle or vessel is physically  
 190 located.

191 (c) ~~(d)~~ The notice of lien may not be sent to the registered  
 192 owner, the insurance company insuring the vehicle or vessel, and  
 193 all other persons claiming a lien thereon less than 30 days  
 194 before the sale of a the vehicle or vessel that is more than 3  
 195 years of age or less than 60 days before the sale of a vehicle  
 196 or vessel that is 3 years of age or less.

197 (d) ~~(e)~~ If attempts to locate the name and address of the  
 198 owner or lienholder prove unsuccessful, the towing-storage  
 199 operator shall, after 3 ~~7~~ business days, excluding Saturday and  
 200 Sunday, after the initial tow or storage, notify the public  
 201 agency of jurisdiction where the vehicle or vessel is stored in  
 202 writing by certified mail ~~or acknowledged hand delivery~~ that the  
 203 towing-storage company has been unable to locate the name and

Page 7 of 26

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9-01546-23

2023760\_\_

204 address of the owner or lienholder and a physical search of the  
 205 vehicle or vessel has disclosed no ownership information and a  
 206 good faith effort has been made, including records checks of the  
 207 Department of Highway Safety and Motor Vehicles database and the  
 208 National Motor Vehicle Title Information System or an equivalent  
 209 commercially available system. For purposes of this paragraph  
 210 and subsection (9), the term "good faith effort" means that the  
 211 following checks have been performed by the company to establish  
 212 the prior state of registration and for title:

213 1. A check of the department's database for the owner and  
 214 any lienholder.

215 2. A check of the electronic National Motor Vehicle Title  
 216 Information System or an equivalent commercially available  
 217 system to determine the state of registration when there is not  
 218 a current registration record for the vehicle or vessel on file  
 219 with the department.

220 3. A check of the vehicle or vessel for any type of tag,  
 221 tag record, temporary tag, or regular tag.

222 4. A check of the law enforcement report for a tag number  
 223 or other information identifying the vehicle or vessel, if the  
 224 vehicle or vessel was towed at the request of a law enforcement  
 225 officer.

226 5. A check of the trip sheet or tow ticket of the tow truck  
 227 operator to determine whether a tag was on the vehicle or vessel  
 228 at the beginning of the tow, if a private tow.

229 6. If there is no address of the owner on the impound  
 230 report, a check of the law enforcement report to determine  
 231 whether an out-of-state address is indicated from driver license  
 232 information.

Page 8 of 26

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9-01546-23

2023760\_\_

233 7. A check of the vehicle or vessel for an inspection  
 234 sticker or other stickers and decals that may indicate a state  
 235 of possible registration.

236 8. A check of the interior of the vehicle or vessel for any  
 237 papers that may be in the glove box, trunk, or other areas for a  
 238 state of registration.

239 9. A check of the vehicle for a vehicle identification  
 240 number.

241 10. A check of the vessel for a vessel registration number.

242 11. A check of the vessel hull for a hull identification  
 243 number which should be carved, burned, stamped, embossed, or  
 244 otherwise permanently affixed to the outboard side of the  
 245 transom or, if there is no transom, to the outmost seaboard side  
 246 at the end of the hull that bears the rudder or other steering  
 247 mechanism.

248 (5) (a) The owner of a vehicle or vessel removed pursuant to  
 249 paragraph (2) (b) subsection (2), or any person claiming a lien,  
 250 other than the towing-storage operator, within 10 days after the  
 251 time she or he has knowledge of the location of the vehicle or  
 252 vessel, may file a complaint in the county court of the county  
 253 in which the vehicle or vessel is stored to determine whether  
 254 her or his property was wrongfully taken or withheld.

255 (b) At any time before the sale of the vehicle or vessel,  
 256 an owner or lienholder may have her or his vehicle or vessel  
 257 released upon payment of the applicable fee in s. 28.24 and  
 258 posting with the court a cash or surety bond, or other adequate  
 259 security, in accordance with s. 559.917 equal to the amount of  
 260 the charges for towing or storage and lot rental amount to  
 261 ensure the payment of such charges in the event she or he does

Page 9 of 26

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9-01546-23

2023760\_\_

262 not prevail. ~~Upon the posting of the bond and the payment of the~~  
 263 ~~applicable fee set forth in s. 28.24, the clerk of the court~~  
 264 ~~shall issue a certificate notifying the lienor of the posting of~~  
 265 ~~the bond and directing the lienor to release the vehicle or~~  
 266 ~~vessel. At the time of such release, after reasonable~~  
 267 ~~inspection, she or he shall give a receipt to the towing-storage~~  
 268 ~~company reciting any claims she or he has for loss or damage to~~  
 269 ~~the vehicle or vessel or the contents thereof.~~

270 (c) Upon determining the respective rights of the parties,  
 271 the court may award damages, attorney attorney's fees, and costs  
 272 in favor of the prevailing party. In any event, the final order  
 273 must shall provide for immediate payment in full of recovery,  
 274 towing, and storage fees by the vehicle or vessel owner or  
 275 lienholder; or the agency ordering the tow; or the owner,  
 276 lessee, or agent thereof of the property from which the vehicle  
 277 or vessel was removed.

278 (6) A vehicle or vessel that is stored pursuant to  
 279 paragraph (2) (b) subsection (2) and remains unclaimed, or for  
 280 which reasonable charges for recovery, towing, or storing remain  
 281 unpaid, and any contents not released pursuant to subsection  
 282 (10), may be sold by the owner or operator of the storage space  
 283 for such towing or storage charge 35 days after the vehicle or  
 284 vessel is stored by the lienor if the vehicle or vessel is more  
 285 than 3 years of age or 65 50 days after the vehicle or vessel is  
 286 stored by the lienor if the vehicle or vessel is 3 years of age  
 287 or less. The sale must shall be at public sale for cash. If the  
 288 date of the sale was not included in the notice required in  
 289 subsection (4), notice of the sale must shall be given to the  
 290 person in whose name the vehicle or vessel is registered and to

Page 10 of 26

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9-01546-23 2023760\_\_

291 all persons claiming a lien on the vehicle or vessel as shown on  
 292 the records of the Department of Highway Safety and Motor  
 293 Vehicles or of any corresponding agency in any other state in  
 294 which the vehicle is identified through a records check of the  
 295 National Motor Vehicle Title Information System or an equivalent  
 296 commercially available system as being titled. Notice of the  
 297 sale must be sent by certified mail to the owner of the vehicle  
 298 or vessel and the person having the recorded lien on the vehicle  
 299 or vessel at the address shown on the records of the registering  
 300 agency at least 30 days before the sale of the vehicle or  
 301 vessel. The notice must have clearly identified and printed, if  
 302 the claim of lien is for a motor vehicle, The last 8 digits of  
 303 the vehicle identification number of the ~~motor~~ vehicle subject  
 304 to the lien, or, if the claim of lien is for a vessel, the hull  
 305 identification number of the vessel subject to the lien, must be  
 306 clearly identified and printed in the delivery address box and  
 307 on the outside of the envelope sent to the registered owner and  
 308 all other persons claiming an interest in therein or lien on the  
 309 vehicle or vessel thereon. The notice must be sent to the owner  
 310 of the vehicle or vessel and the person having the recorded lien  
 311 on the vehicle or vessel at the address shown on the records of  
 312 the registering agency at least 30 days before the sale of the  
 313 vehicle or vessel. The notice must state the name, physical  
 314 address, and telephone number of the lienor, and the vehicle  
 315 identification number if the claim of lien is for a vehicle or  
 316 the hull identification number if the claim of lien is for a  
 317 vessel, all of which must also appear in the return address  
 318 section on the outside of the envelope containing the notice of  
 319 sale. After diligent search and inquiry, if the name and address

9-01546-23 2023760\_\_

320 of the registered owner or the owner of the recorded lien cannot  
 321 be ascertained, the requirements of notice by mail may be  
 322 dispensed with. In addition to the notice by mail, public notice  
 323 of the time and place of sale ~~must shall~~ be made by publishing a  
 324 notice thereof one time, at least ~~30 10~~ days before the date of  
 325 the sale, in a newspaper of general circulation in the county in  
 326 which the sale is to be held. The proceeds of the sale, after  
 327 payment of reasonable towing and storage charges, and costs of  
 328 the sale, in that order of priority, must shall be deposited  
 329 with the clerk of the circuit court for the county if the owner  
 330 or lienholder is absent, and the clerk shall hold such proceeds  
 331 subject to the claim of the owner or lienholder legally entitled  
 332 thereto. The clerk is shall be entitled to receive 5 percent of  
 333 such proceeds for the care and disbursement thereof. ~~The~~  
 334 ~~certificate of title issued under this law shall be discharged~~  
 335 ~~of~~ All liens on the certificate of title issued under this  
 336 section must be discharged unless otherwise provided by court  
 337 order. The owner or lienholder may file a complaint after the  
 338 vehicle or vessel has been sold in the county court of the  
 339 county in which it is stored. Upon determining the respective  
 340 rights of the parties, the court may award damages, attorney  
 341 fees, and costs in favor of the prevailing party.  
 342 (9) Failure to make good faith efforts to substantially  
 343 comply with the notice requirements of this section ~~or precludes~~  
 344 ~~the imposition of any storage charges against the vehicle or~~  
 345 ~~vessel. If a lienor fails to provide notice to a person claiming~~  
 346 ~~a lien on a vehicle or vessel in accordance with subsection (4)~~  
 347 precludes the imposition of storage charges against the vehicle  
 348 or vessel, the lienor may not charge the person for more than 3

9-01546-23

2023760\_\_

349 7 days of storage, but such failure does not affect charges made  
350 for towing the vehicle or vessel or the priority of liens on the  
351 vehicle or vessel.

352 (11) (a) Any person regularly engaged in the business of  
353 recovering, towing, or storing vehicles or vessels who comes  
354 into possession of a vehicle or vessel pursuant to paragraph  
355 (2) (b) subsection (2) and who has complied with ~~the provisions~~  
356 ~~of subsections (4) (3) and (6)~~, when such vehicle or vessel is  
357 to be sold for purposes of being dismantled, destroyed, or  
358 changed in such manner that it is not the ~~motor~~ vehicle or  
359 vessel described in the certificate of title, must ~~shall~~ report  
360 the vehicle to the National Motor Vehicle Title Information  
361 System and apply to the Department of Highway Safety and Motor  
362 Vehicles for a certificate of destruction. A certificate of  
363 destruction, which authorizes the dismantling or destruction of  
364 the vehicle or vessel described therein, ~~is shall be~~  
365 reassignable a maximum of two times before dismantling or  
366 destruction of the vehicle ~~is shall be~~ required, and must shall  
367 accompany the vehicle or vessel for which it is issued, when  
368 such vehicle or vessel is sold for such purposes, in lieu of a  
369 certificate of title. The application for a certificate of  
370 destruction must include proof of reporting to the National  
371 Motor Vehicle Title Information System and an affidavit from the  
372 applicant that ~~she or he it~~ has complied with all applicable  
373 requirements of this section and, if the vehicle or vessel is  
374 not registered in this state or any other state, by a statement  
375 from a law enforcement officer that the vehicle or vessel is not  
376 reported stolen, and must shall be accompanied by such  
377 documentation as may be required by the department.

Page 13 of 26

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9-01546-23

2023760\_\_

378 (12) (a) Any person who violates paragraph (2) (b) any  
379 ~~provision of subsection (1), subsection (2), subsection (4),~~  
380 ~~subsection (5), subsection (6), or subsection (7)~~ is guilty of a  
381 misdemeanor of the first degree, punishable as provided in s.  
382 775.082 or s. 775.083.

383 (13) (a) Upon receipt by the Department of Highway Safety  
384 and Motor Vehicles of written notice from a wrecker operator who  
385 claims a wrecker operator's lien under subparagraph (2) (b) 4.  
386 ~~paragraph (2) (d)~~ for recovery, towing, or storage of an  
387 abandoned vehicle or vessel upon instructions from any law  
388 enforcement agency, for which a certificate of destruction has  
389 been issued under subsection (11) and the vehicle has been  
390 reported to the National Motor Vehicle Title Information System,  
391 the department shall place the name of the registered owner of  
392 that vehicle or vessel on the list of those persons who may not  
393 be issued a license plate or revalidation sticker for any motor  
394 vehicle under s. 320.03(8). If the vehicle or vessel is owned  
395 jointly by more than one person, the name of each registered  
396 owner must shall be placed on the list. The notice of wrecker  
397 operator's lien must shall be submitted on forms provided by the  
398 department ~~and, which must~~ include:

- 399 1. The name, address, and telephone number of the wrecker
- 400 operator.
- 401 2. The name of the registered owner of the vehicle or
- 402 vessel and the address to which the wrecker operator provided
- 403 notice of the lien to the registered owner under subsection (4).
- 404 3. A general description of the vehicle or vessel,
- 405 including its color, make, model, body style, and year.
- 406 4. The vehicle identification number (VIN); registration

Page 14 of 26

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9-01546-23 2023760\_\_

407 license plate number, state, and year; validation decal number,  
408 state, and year; vessel registration number; hull identification  
409 number; or other identification number, as applicable.

410 5. The name of the person or the corresponding law  
411 enforcement agency that requested that the vehicle or vessel be  
412 recovered, towed, or stored.

413 6. The amount of the wrecker operator's lien, not to exceed  
414 the amount allowed by paragraph (b).

415 (b) For purposes of this subsection only, the amount of the  
416 wrecker operator's lien for which the department will prevent  
417 issuance of a license plate or revalidation sticker may not  
418 exceed the amount of the charges for recovery, towing, and  
419 storage of the vehicle or vessel for 7 days. These charges may  
420 not exceed the maximum rates imposed by the ordinances of the  
421 respective county or municipality under ss. 125.0103(1)(c) and  
422 166.043(1)(c). This paragraph does not limit the amount of a  
423 wrecker operator's lien claimed under paragraph (2)(b)  
424 ~~subsection (2)~~ or prevent a wrecker operator from seeking civil  
425 remedies for enforcement of the entire amount of the lien, but  
426 limits only that portion of the lien for which the department  
427 will prevent issuance of a license plate or revalidation  
428 sticker.

429 (d) Upon discharge of the amount of the wrecker operator's  
430 lien allowed by paragraph (b), the wrecker operator must issue a  
431 certificate of discharged wrecker operator's lien on forms  
432 provided by the department to each registered owner of the  
433 vehicle or vessel attesting that the amount of the wrecker  
434 operator's lien allowed by paragraph (b) has been discharged.  
435 Upon presentation of the certificate of discharged wrecker

Page 15 of 26

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9-01546-23 2023760\_\_

436 operator's lien by the registered owner, the department must  
437 ~~shall~~ immediately remove the registered owner's name from the  
438 list of those persons who may not be issued a license plate or  
439 revalidation sticker for any motor vehicle under s. 320.03(8),  
440 thereby allowing issuance of a license plate or revalidation  
441 sticker. Issuance of a certificate of discharged wrecker  
442 operator's lien under this paragraph does not discharge the  
443 entire amount of the wrecker operator's lien claimed under  
444 paragraph (2)(b) ~~subsection (2)~~, but only certifies to the  
445 department that the amount of the wrecker operator's lien  
446 allowed by paragraph (b), for which the department will prevent  
447 issuance of a license plate or revalidation sticker, has been  
448 discharged.

449 (15)(a) A lienor or the lienor's agent may charge an  
450 administrative fee to the registered owner or a person claiming  
451 a lien against the vehicle or vessel to obtain release of the  
452 vehicle or vessel from the claim of lien imposed under this  
453 section. The ~~such~~ administrative fee may not exceed \$250 or the  
454 amount set by the county or municipality, whichever is less. For  
455 purposes of this paragraph, the term "administrative fee" means  
456 a lien fee or any fee imposed by the lienor or the lienor's  
457 agent for administrative costs added to the amount due for  
458 towing and storing the vehicle or vessel.

459 (18) A towing-storage operator must retain records of all  
460 vehicles or vessels recovered, towed, or stored; all notice  
461 publications and certified mailings; and all fees imposed under  
462 this section.

463 (19) This section is the exclusive remedy for the placement  
464 or foreclosure of a storage lien placed on a vehicle or vessel.

Page 16 of 26

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9-01546-23

2023760\_\_

465 Section 3. Section 559.917, Florida Statutes, is amended to  
466 read:

467 559.917 Bond to release possessory lien claimed by motor  
468 vehicle repair shop or towing-storage operator.-

469 (1) (a) A customer or a person of record claiming a lien  
470 against a motor vehicle or vessel may obtain the release of the  
471 motor vehicle or vessel from any lien claimed under part II of  
472 chapter 713 by a motor vehicle repair shop for repair work  
473 performed under a written repair estimate or by a towing-storage  
474 operator for recovery, towing, or storage charges by filing with  
475 the clerk of the court in the circuit in which the disputed  
476 transaction occurred a cash or surety bond, payable to the  
477 person claiming the lien and conditioned for the payment of any  
478 judgment which may be entered on the lien. The bond must shall  
479 be in the amount stated on the notice of lien required under s.  
480 713.78(4) or on the invoice required by s. 559.911, plus accrued  
481 storage charges, if any, less any amount paid to the motor  
482 vehicle repair shop as indicated on the invoice. The customer or  
483 person is shall not be required to institute judicial  
484 proceedings in order to post the bond in the registry of the  
485 court and is shall not be required to use a particular form for  
486 posting the bond unless the clerk provides such form to the  
487 customer or person for filing. Upon the posting of such bond,  
488 the clerk of the court shall automatically issue a certificate  
489 notifying the lienor of the posting of the bond and directing  
490 the lienor to release the motor vehicle or vessel.

491 (b) The lienor has shall have 60 days to file suit to  
492 recover the bond. The prevailing party in that action may be  
493 entitled to damages plus court costs and reasonable attorney

Page 17 of 26

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9-01546-23

2023760\_\_

494 fees. If the lienor fails to file suit within 60 days after the  
495 posting of such bond, the bond must shall be discharged by the  
496 clerk.

497 (2) ~~If the failure of~~ a lienor fails to release or return  
498 to the customer or person the motor vehicle or vessel upon which  
499 any lien is claimed, upon receiving a copy of a certificate  
500 giving notice of the posting of the bond and directing release  
501 of the motor vehicle or vessel, the lienor is shall subject ~~the~~  
502 ~~lienor~~ to judicial proceedings which may be brought by the  
503 customer or person to compel compliance with the certificate. If  
504 ~~Whenever~~ a customer or person brings an action to compel  
505 compliance with the certificate, the customer or person must  
506 ~~need only~~ establish the following that:

507 (a) That the bond in the amount on the notice of lien  
508 required under s. 713.78(4) or on of the invoice, plus accrued  
509 storage charges, if any, less any amount paid to the motor  
510 vehicle repair shop as indicated on the invoice, was posted, ~~+~~

511 (b) That a certificate was issued under pursuant to this  
512 section. ~~+~~

513 (c) That the motor vehicle repair shop or towing-storage  
514 operator, or any employee or agent thereof who is authorized to  
515 release the motor vehicle or vessel, received a copy of a  
516 certificate issued under pursuant to this section. ~~+~~ and

517 (d) That the motor vehicle repair shop or towing-storage  
518 operator, or an employee or agent thereof who is authorized to  
519 release the motor vehicle or vessel, failed to release the motor  
520 vehicle or vessel.

521  
522 The customer or person, upon a judgment in her or his favor in

Page 18 of 26

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9-01546-23 2023760\_\_

523 an action brought under this subsection, may be entitled to  
524 damages plus court costs and reasonable attorney fees sustained  
525 by her or him by reason of such wrongful detention or retention.  
526 Upon a judgment in favor of the motor vehicle repair shop or  
527 towing-storage operator, the shop or towing-storage operator may  
528 be entitled to reasonable attorney fees.

529 (3) A motor vehicle repair shop or towing-storage operator  
530 ~~that~~, or an employee or agent thereof who is authorized to  
531 release the motor vehicle or vessel, who, upon receiving a copy  
532 of a certificate giving notice of the posting of the bond in the  
533 required amount and directing release of the motor vehicle or  
534 vessel, fails to release or return the property to the customer  
535 or person pursuant to this section commits a misdemeanor of the  
536 second degree, punishable as provided in s. 775.082 or s.  
537 775.083.

538 (4) A customer or person who stops payment on a credit card  
539 charge or a check drawn in favor of a motor vehicle repair shop  
540 on account of an invoice or who fails to post a cash or surety  
541 bond under pursuant to this section is shall be prohibited from  
542 any recourse under this section with respect to the motor  
543 vehicle repair shop.

544 (5) For purposes of this section, the terms "towing-storage  
545 operator" and "vessel" have the same meanings as in s.  
546 713.78(1).

547 Section 4. Section 83.09, Florida Statutes, is amended to  
548 read:

549 83.09 Exemptions from liens for rent.—

550 (1) The No property of any tenant or lessee shall be exempt  
551 from distress and sale for rent, except beds, bedclothes, and

9-01546-23 2023760\_\_

552 wearing apparel of a tenant or lessee are exempt from distress  
553 and sale for rent.

554 (2) A lien on a vehicle or vessel, as those terms are  
555 defined in s. 713.78(1), of a tenant or lessee must be placed  
556 and foreclosed pursuant to s. 713.78 and may not be placed or  
557 foreclosed under this chapter.

558 Section 5. Section 83.805, Florida Statutes, is amended to  
559 read:

560 83.805 Lien.—

561 (1) The owner of a self-service storage facility or self-  
562 contained storage unit and the owner's heirs, executors,  
563 administrators, successors, and assigns have a lien upon all  
564 personal property, whether or not owned by the tenant, located  
565 at a self-service storage facility or in a self-contained  
566 storage unit for rent, labor charges, or other charges, present  
567 or future, in relation to the personal property and for expenses  
568 necessary for its preservation or expenses reasonably incurred  
569 in its sale or other disposition pursuant to ss. 83.801-83.809.  
570 The lien provided for in this section attaches as of the date  
571 that the personal property is brought to the self-service  
572 storage facility or as of the date the tenant takes possession  
573 of the self-contained storage unit, and the priority of this  
574 lien shall be the same as provided in s. 83.08; however, in the  
575 event of default, the owner must give notice to persons who hold  
576 perfected security interests under the Uniform Commercial Code  
577 in which the tenant is named as the debtor.

578 (2) A lien on a vehicle or vessel, as those terms are  
579 defined in s. 713.78(1), of a tenant must be placed and  
580 foreclosed pursuant to s. 713.78 and may not be placed or

9-01546-23

2023760\_\_

581 foreclosed under this chapter.

582 Section 6. Subsection (10) is added to section 677.210,  
583 Florida Statutes, to read:

584 677.210 Enforcement of warehouse's lien.—

585 (10) A lien on a vehicle or vessel, as those terms are  
586 defined in s. 713.78(1), must be placed and foreclosed pursuant  
587 to s. 713.78 and may not be placed or foreclosed under this  
588 chapter.

589 Section 7. Paragraph (a) of subsection (2) of section  
590 715.07, Florida Statutes, is amended to read:

591 715.07 Vehicles or vessels parked on private property;  
592 towing.—

593 (2) The owner or lessee of real property, or any person  
594 authorized by the owner or lessee, which person may be the  
595 designated representative of the condominium association if the  
596 real property is a condominium, may cause any vehicle or vessel  
597 parked on such property without her or his permission to be  
598 removed by a person regularly engaged in the business of towing  
599 vehicles or vessels, without liability for the costs of removal,  
600 transportation, or storage or damages caused by such removal,  
601 transportation, or storage, under any of the following  
602 circumstances:

603 (a) The towing or removal of any vehicle or vessel from  
604 private property without the consent of the registered owner or  
605 other legally authorized person in control of that vehicle or  
606 vessel is subject to substantial compliance with the following  
607 conditions and restrictions:

608 1.a. Any towed or removed vehicle or vessel must be stored  
609 at a site within a 10-mile radius of the point of removal in any

9-01546-23

2023760\_\_

610 county of 500,000 population or more, and within a 15-mile  
611 radius of the point of removal in any county of fewer than  
612 500,000 population. That site must be open for the purpose of  
613 redemption of vehicles on any day that the person or firm towing  
614 such vehicle or vessel is open for towing purposes, from 8:00  
615 a.m. to 6:00 p.m., and, when closed, shall have prominently  
616 posted a sign indicating a telephone number where the operator  
617 of the site can be reached at all times. Upon receipt of a  
618 telephoned request to open the site to redeem a vehicle or  
619 vessel, the operator shall return to the site within 1 hour or  
620 she or he will be in violation of this section.

621 b. If no towing business providing such service is located  
622 within the area of towing limitations set forth in sub-  
623 subparagraph a., the following limitations apply: any towed or  
624 removed vehicle or vessel must be stored at a site within a 20-  
625 mile radius of the point of removal in any county of 500,000  
626 population or more, and within a 30-mile radius of the point of  
627 removal in any county of fewer than 500,000 population.

628 2. The person or firm towing or removing the vehicle or  
629 vessel shall, within 30 minutes after completion of such towing  
630 or removal, notify the municipal police department or, in an  
631 unincorporated area, the sheriff, of such towing or removal, the  
632 storage site, the time the vehicle or vessel was towed or  
633 removed, and the make, model, color, and license plate number of  
634 the vehicle or description and registration number of the vessel  
635 and shall obtain the name of the person at that department to  
636 whom such information was reported and note that name on the  
637 trip record.

638 3. A person in the process of towing or removing a vehicle

9-01546-23

2023760

639 or vessel from the premises or parking lot in which the vehicle  
 640 or vessel is not lawfully parked must stop when a person seeks  
 641 the return of the vehicle or vessel. The vehicle or vessel must  
 642 be returned upon the payment of a reasonable service fee of not  
 643 more than one-half of the posted rate for the towing or removal  
 644 service as provided in subparagraph 6. The vehicle or vessel may  
 645 be towed or removed if, after a reasonable opportunity, the  
 646 owner or legally authorized person in control of the vehicle or  
 647 vessel is unable to pay the service fee. If the vehicle or  
 648 vessel is redeemed, a detailed signed receipt must be given to  
 649 the person redeeming the vehicle or vessel.

650 4. A person may not pay or accept money or other valuable  
 651 consideration for the privilege of towing or removing vehicles  
 652 or vessels from a particular location.

653 5. Except for property appurtenant to and obviously a part  
 654 of a single-family residence, and except for instances when  
 655 notice is personally given to the owner or other legally  
 656 authorized person in control of the vehicle or vessel that the  
 657 area in which that vehicle or vessel is parked is reserved or  
 658 otherwise unavailable for unauthorized vehicles or vessels and  
 659 that the vehicle or vessel is subject to being removed at the  
 660 owner's or operator's expense, any property owner or lessee, or  
 661 person authorized by the property owner or lessee, before towing  
 662 or removing any vehicle or vessel from private property without  
 663 the consent of the owner or other legally authorized person in  
 664 control of that vehicle or vessel, must post a notice meeting  
 665 the following requirements:

666 a. The notice must be prominently placed at each driveway  
 667 access or curb cut allowing vehicular access to the property

9-01546-23

2023760

668 within 10 feet from the road, as defined in s. 334.03(22). If  
 669 there are no curbs or access barriers, the signs must be posted  
 670 not fewer than one sign for each 25 feet of lot frontage.

671 b. The notice must clearly indicate, in not fewer than 2-  
 672 inch high, light-reflective letters on a contrasting background,  
 673 that unauthorized vehicles will be towed away at the owner's  
 674 expense. The words "tow-away zone" must be included on the sign  
 675 in not fewer than 4-inch high letters.

676 c. The notice must also provide the name and current  
 677 telephone number of the person or firm towing or removing the  
 678 vehicles or vessels.

679 d. The sign structure containing the required notices must  
 680 be permanently installed with the words "tow-away zone" not  
 681 fewer than 3 feet and not more than 6 feet above ground level  
 682 and must be continuously maintained on the property for not  
 683 fewer than 24 hours before the towing or removal of any vehicles  
 684 or vessels.

685 e. The local government may require permitting and  
 686 inspection of these signs before any towing or removal of  
 687 vehicles or vessels being authorized.

688 f. A business with 20 or fewer parking spaces satisfies the  
 689 notice requirements of this subparagraph by prominently  
 690 displaying a sign stating "Reserved Parking for Customers Only  
 691 Unauthorized Vehicles or Vessels Will be Towed Away At the  
 692 Owner's Expense" in not fewer than 4-inch high, light-reflective  
 693 letters on a contrasting background.

694 g. A property owner towing or removing vessels from real  
 695 property must post notice, consistent with the requirements in  
 696 sub-subparagraphs a.-f., which apply to vehicles, that



9-01546-23 2023760\_\_

697 unauthorized vehicles or vessels will be towed away at the  
 698 owner's expense.  
 699

700 A business owner or lessee may authorize the removal of a  
 701 vehicle or vessel by a towing company when the vehicle or vessel  
 702 is parked in such a manner that restricts the normal operation  
 703 of business; and if a vehicle or vessel parked on a public  
 704 right-of-way obstructs access to a private driveway the owner,  
 705 lessee, or agent may have the vehicle or vessel removed by a  
 706 towing company upon signing an order that the vehicle or vessel  
 707 be removed without a posted tow-away zone sign.

708 6. Any person or firm that tows or removes vehicles or  
 709 vessels and proposes to require an owner, operator, or person in  
 710 control or custody of a vehicle or vessel to pay the costs of  
 711 towing and storage before redemption of the vehicle or vessel  
 712 must file and keep on record with the local law enforcement  
 713 agency a complete copy of the current rates to be charged for  
 714 such services and post at the storage site an identical rate  
 715 schedule and any written contracts with property owners,  
 716 lessees, or persons in control of property which authorize such  
 717 person or firm to remove vehicles or vessels as provided in this  
 718 section.

719 7. Any person or firm towing or removing any vehicles or  
 720 vessels from private property without the consent of the owner  
 721 or other legally authorized person in control or custody of the  
 722 vehicles or vessels shall, on any trucks, wreckers as defined in  
 723 s. 713.78(1) ~~s. 713.78(1)(c)~~, or other vehicles used in the  
 724 towing or removal, have the name, address, and telephone number  
 725 of the company performing such service clearly printed in

9-01546-23 2023760\_\_

726 contrasting colors on the driver and passenger sides of the  
 727 vehicle. The name shall be in at least 3-inch permanently  
 728 affixed letters, and the address and telephone number shall be  
 729 in at least 1-inch permanently affixed letters.

730 8. Vehicle entry for the purpose of removing the vehicle or  
 731 vessel shall be allowed with reasonable care on the part of the  
 732 person or firm towing the vehicle or vessel. Such person or firm  
 733 shall be liable for any damage occasioned to the vehicle or  
 734 vessel if such entry is not in accordance with the standard of  
 735 reasonable care.

736 9. When a vehicle or vessel has been towed or removed  
 737 pursuant to this section, it must be released to its owner or  
 738 person in control or custody within 1 hour after requested. Any  
 739 vehicle or vessel owner or person in control or custody has the  
 740 right to inspect the vehicle or vessel before accepting its  
 741 return, and no release or waiver of any kind which would release  
 742 the person or firm towing the vehicle or vessel from liability  
 743 for damages noted by the owner or person in control or custody  
 744 at the time of the redemption may be required from any vehicle  
 745 or vessel owner or person in control or custody as a condition  
 746 of release of the vehicle or vessel to its owner or person in  
 747 control or custody. A detailed receipt showing the legal name of  
 748 the company or person towing or removing the vehicle or vessel  
 749 must be given to the person paying towing or storage charges at  
 750 the time of payment, whether requested or not.

751 Section 8. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

760

Bill Number or Topic

652044

Amendment Barcode (if applicable)

3-20-23

Meeting Date

Transportation

Committee

Name Mike Seamon

Phone 407-402-1040

Address 4718 Edgewater Dr

Email mseamon@hotmail.com

Street

Orlando

City

FL

State

32804

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Professional wrecker operators of Florida

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, 2020-2022 Joint Rules.pdf (flsenate.gov)

The Florida Senate

APPEARANCE RECORD

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SB760 - 1

Bill Number or Topic

652044

Amendment Barcode (if applicable)

813-836-7648

March 20, 2023

Meeting Date

Transportation

Committee

Name Dennis Levine

Phone

Address 3211 W. Lawn Ave.

Email dennis.levine@brockandsott.com

Street

Tampa

FL

33611

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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3-20-23

Meeting Date

760

Bill Number or Topic

Transportation

Committee

652044

Amendment Barcode (if applicable)

Name

Harvey Spencer

Phone

352-672-8486

Address

261 NE 341 Ave

Email

tricitytownge@yahoo.com

Street

Old Town

City

State

FL 32680

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/20/23

Meeting Date

760

Bill Number or Topic

Transpartation

Committee

652044

Amendment Barcode (if applicable)

Name MARSON JOHNSON JR

Phone 727-638-7198

Address 545 52nd Street S.

Email MARSONJOHNSON@Gmail.Com

Street

St Petersburg FL

33707

City

State

Zip

Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB760

Bill Number or Topic

3/20/23

Meeting Date

Transportation

Committee

Amendment Barcode (if applicable)

Name

Denis LeVine

Phone

813-836-7648

Address

3211 W. Lynn Ave

Email

denis.levine@brockandscott.com

Street

Tampa

FL

33611

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4500 760  
Bill Number or Topic

3/20/23

Meeting Date

Transportation

Committee

Amendment Barcode (if applicable)

Name Doug Bell

Phone 205 9000

Address 119 S. Monroe

Email

Street

TLH

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Avis Budget Rental Cars

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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Senate professional staff conducting the meeting

3/20/23  
Meeting Date

Transportation  
Committee

760  
Bill Number or Topic

Amendment Barcode (if applicable)

Name ALIX MILLER

Phone 850-222-9900

Address 250 E. College Ave  
Street

Email alix@floridatrucking.org

Tallahassee FL 32301  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FLORIDA TRUCKING ASSOCIATION

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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The Florida Senate  
**APPEARANCE RECORD**

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8/24/23

Meeting Date

TRANS

Committee

760

Bill Number or Topic

Amendment Barcode (if applicable)

Name

FRED DICKINSON

Phone

850 591 9930

Address

Pooler McKinley

Email

fred@poolermckinley.com

Street

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: **SSTA**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/20/23

Meeting Date

760

Bill Number or Topic

Transportation

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Leslie Dughi

Phone

Address

Email

Leslie.Dughi@MHDfirm.com

Street

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Enterprise, National, Alamo

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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7600

Bill Number or Topic

652044

Amendment Barcode (if applicable)

3/20/23

Meeting Date

Transportation

Committee

Name

Leslie Dughi

Phone

Address

Street

Email

leslie.dughi@mhd firm.com

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Enterprise, National / Alamo

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



The Florida Senate

## Committee Agenda Request

**To:** Senator Nick DiCeglie, Chair  
Committee on Transportation

**Subject:** Committee Agenda Request

**Date:** February 27, 2023

---

I respectfully request that **Senate Bill #760**, relating to Wrecker and Towing Operators, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style and is positioned above a horizontal line.

Senator Keith Perry  
Florida Senate, District 9

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

---

**BILL:** CS/SB 838

**INTRODUCER:** Transportation Committee and Senator Collins

**SUBJECT:** Proceeds Funding Motorcycle Safety Education

**DATE:** March 21, 2023      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Vickers	TR	<b>Fav/CS</b>
2.			ATD	
3.			AP	

---

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 838 reallocates the \$2.50 annual fee provided to the Department of Highway Safety and Motor Vehicles (DHSMV) for motorcycle safety education to a Florida not-for-profit corporation that meets specified criteria. The bill requires the DHSMV to select a qualified program administrator and enter into a five-year contract by October 1, 2023, for motorcycle safety and education programs. The bill authorizes such programs to include pamphlets, advertisements, public service announcements, digital media, social media, a website, participation at grassroots motorcycle events, advocacy, and reasonable administrative expenses.

The program administrator must file an annual report with the Senate President and Speaker of the House of Representatives outlining the types of events the program administrator attended, the methods selected to distribute safety awareness and education materials, and an estimate of the number of individuals who were exposed to the program administrator’s educational efforts.

Based on the current number of registered motorcycles, the bill may reallocate approximately \$1,626,675 annually from DHSMV to the selected not-for-profit corporation.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Florida Rider Training Program

Upon annual registration of a motorcycle, motor-driven cycle, or moped, in addition to the license taxes,<sup>1</sup> a motorcycle safety education fee of \$2.50 is required. The proceeds of the additional fee are deposited into the Highway Safety Operating Trust Fund, and can be used by DHSMV for the Florida Motorcycle Safety Education Program established by s. 322.0255, F.S., or the general operations of the department.<sup>2</sup>

Section 322.0255, F.S., requires the DHSMV to establish a Florida Motorcycle Safety Program, to be funded by the \$2.50 motorcycle safety education fee. This law requires the DHSMV to:

- Establish and administer motorcycle safety courses;
- Prescribe the curricula for such courses, which must include a minimum of 12 hours of instruction in which at least half consists of actual motorcycle operation; and
- Prescribe the qualifications for certification of instructors in the program.

Additionally, the DHSMV may approve organizations to conduct motorcycle safety courses determined to be comparable, fulfilling the DHSMV's training requirements.

Based on these requirements, the DHSMV created the Florida Rider Training Program (FRTTP) to provide motorcycle safety training, course curriculum and the certification of instructors.<sup>3</sup> The FRTTP consists of nine statewide members that train, audit and perform quality assurance on the 67 training facilities, which provide educational opportunities for motorcyclists including training required for licensure and continuing education.<sup>4</sup>

According to DHSMV, the DHSMV focuses efforts on motorcycle safety through education, outreach, and enforcement activities, and provides motorcycle safety education by:<sup>5</sup>

- Participating on the Florida Motorcycle Safety Coalition<sup>6</sup> as the subject matter experts regarding training and licensure of motorcycle riders in Florida.
- Updating the Driver License Handbook to incorporate motorcycle awareness and including several questions on the Driver License knowledge test regarding public interaction with motorcyclists.
- Conducting outreach in high schools throughout Florida providing information on motorcycle safety awareness.

As of February 5, 2023, there were 650,670 registered motorcycles in Florida.<sup>7</sup> Based on the \$2.50 motorcycle safety education fee, the DHSMV collects approximately \$1,626,675 annually.

---

<sup>1</sup> The required license tax is \$10 for a motorcycle and \$5 for a moped. Section 320.08(1)(a) and (b), F.S.

<sup>2</sup> Section 320.08(1)(c), F.S.

<sup>3</sup> Rule 15A-12.001, F.A.C.

<sup>4</sup> DHSMV, *2023 Agency Legislative Bill Analysis* (February 27, 2023).

<sup>5</sup> *Id.*

<sup>6</sup> The coalition is a group of statewide safety partners that meet quarterly to share the common goal of reducing fatalities of motorcycle riders and passengers, using data driven research to develop, implement and evaluate counter measures. See *Id.*

<sup>7</sup> *Id.*

### III. Effect of Proposed Changes:

The bill reallocates the \$2.50 motorcycle safety education fee received by DHSMV for the Florida Motorcycle Safety Education Program to a Florida not-for-profit corporation for a safety and education program. The bill requires DHSMV to select and enter into a five-year contract with a qualified program administrator to use the safety education fee to promote motorcycle safety and education for the purpose of reducing motorcycle injuries and deaths in Florida.

To be selected, the program administrator of the Florida not-for-profit corporation must:

- Be a charity registered with the Department of Agriculture and Consumer Services;
- Have a history of actively advocating for motorcycle safety and education in Florida for at least 30 years;
- Be a motorcycle grassroots organization that has actively worked with the Florida motorcycle community for at least 30 years;
- Be focused primarily on promoting motorcycle safety and education throughout Florida; and
- Have at least 3,000 active members from the motorcycle community throughout Florida.

The funds shall be paid quarterly beginning October 1, 2023, and may be used for motorcycle safety and education programs. The programs may include pamphlets, advertisements, public service announcements, digital media, social media, a website, participation at grassroots motorcycle events, advocacy, and reasonable administrative expenses.

The organization must file an annual report with the Senate President and Speaker of the House of Representatives outlining the types of events the program administrator attended, the methods selected to distribute safety awareness and education materials, and an estimate of the number of individuals who were exposed to the program administrator's educational efforts

This bill eliminates funding for DHSMV's Florida Rider Training Program. This may lead to decreased quality of the program and safety of the motorcycle riding population in Florida.<sup>8</sup>

The bill takes effect July 1, 2023.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

---

<sup>8</sup> DHSMV, *2023 Agency Legislative Bill Analysis* (February 27, 2023).

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None Identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill will have a positive fiscal impact on the selected organization, which will receive the \$2.50 collected when a motorcycle is registered in the state. Based on the number of motorcycles registered in Florida, the organization will receive approximately \$1,626,675 annually.

**C. Government Sector Impact:**

The bill will have a negative fiscal impact on the DHSMV, which will no longer receive funding for the Florida Motorcycle Safety Education Program. Based on the number of motorcycles registered in Florida, DHSMV will no longer receive approximately \$1,626,675 annually.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill eliminates the funding provided to DHSMV for the Florida Motorcycle Safety Education Program, but does not remove DHSMV's requirements to administer such program pursuant to s. 322.0255, F.S.

The DHSMV recommends the following be added to the bill:

- Provide a 15 percent cap on funds the organization may use on administrative expenses and define such administrative activities.
- Prohibit fees, or interest earned from the fees, from being used for the purpose of marketing to, or lobbying, entertaining, or rewarding, an employee of a governmental agency that is responsible for the Florida Motorcycle Safety Education Program or an elected member or employee of the Legislature.
- Require the organization to provide an annual attestation, under penalties of perjury, to the DHSMV that proceeds were used in compliance with law.



- Authorize DHSMV to discontinue and withhold fees when an attestation is not submitted or funds are not used in compliance with law.
- Authorize the DHSMV to examine all records pertaining to the use of motorcycle education fees.

#### VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 320.08 and 322.086.

#### IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The CS reallocates the entire \$2.50 motorcycle safety education fee from DHSMV to an unnamed Florida not-for-profit corporation that meets specified criteria in the bill, instead of \$1 from the fee being reallocated to ABATE of Florida, Inc.<sup>9</sup> The DHSMV is required to select a qualified program administrator and enter into a contract as specified in the bill by October 1, 2023.

- B. **Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>9</sup> ABATE of Florida, Inc., is a nonprofit organization that lobbies and educates government and the public to promote safe motorcycling. Its Motorcycle and Safety Awareness Program is given to non-motorcyclists or any organization to educate them how to safely share the road with a motorcyclist, and is taught in local schools Drivers Education Programs, and civic organizations at no charge in hope of reducing motorcycle fatalities and crashes through education not legislation. ABATE of Florida, Inc., *Motorcycle Safety and Awareness (MSAP)*, <https://abatefloridainc.com/motorcycle-safety-program> (last visited March 15, 2023).



445874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
	.	
	.	

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The Committee on Transportation (Collins) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Present paragraph (d) of subsection (1) of section 320.08, Florida Statutes, is redesignated as paragraph (g), a new paragraph (d) and paragraphs (e) and (f) are added to that subsection, and paragraph (c) of that subsection is amended, to read:

320.08 License taxes.—Except as otherwise provided herein,



445874

11 there are hereby levied and imposed annual license taxes for the  
12 operation of motor vehicles, mopeds, tri-vehicles as defined in  
13 s. 316.003, and mobile homes as defined in s. 320.01, which  
14 shall be paid to and collected by the department or its agent  
15 upon the registration or renewal of registration of the  
16 following:

17 (1) MOTORCYCLES AND MOPEDS.—

18 (c) Upon registration of a motorcycle, motor-driven cycle,  
19 or moped, in addition to the license taxes specified in this  
20 subsection, a nonrefundable motorcycle safety education fee in  
21 the amount of \$2.50 shall be paid. The proceeds of the safety  
22 education ~~such additional~~ fee shall be deposited in the Highway  
23 Safety Operating Trust Fund ~~to fund a motorcycle driver~~  
24 ~~improvement program implemented pursuant to s. 322.025, the~~  
25 ~~Florida Motorcycle Safety Education Program established in s.~~  
26 ~~322.0255, or the general operations of the department.~~

27 (d) The entire safety education fee shall be used for a  
28 safety and education program administered by a Florida not-for-  
29 profit corporation. The program administrator must:

30 1. Be a charity registered with the Department of  
31 Agriculture and Consumer Services;

32 2. Have a history of actively advocating for motorcycle  
33 safety and education in this state for at least 30 years;

34 3. Be a motorcycle grassroots organization that has  
35 actively worked with the Florida motorcycle community for at  
36 least 30 years;

37 4. Be focused primarily on promoting motorcycle safety and  
38 education throughout this state; and

39 5. Have at least 3,000 active members drawn from the



445874

40 motorcycle community throughout this state.

41 (e) The department shall enter into a 5-year contract with  
42 the program administrator to use the safety education fee to pay  
43 for motorcycle safety and education programs. The programs must  
44 promote motorcycle safety and education for the purpose of  
45 reducing motorcycle injuries and deaths in this state. The  
46 programs may include pamphlets, advertisements, public service  
47 announcements, digital media, social media, a website,  
48 participation at grassroots motorcycle events, advocacy, and  
49 reasonable administrative expenses.

50 (f) The program administrator shall file an annual report  
51 with the President of the Senate and the Speaker of the House of  
52 Representatives outlining the types of events the program  
53 administrator attended, if any, and the methods selected to  
54 distribute safety awareness and education materials or to expose  
55 the public to the programs, and estimating the number of people  
56 who were exposed to the program administrator's educational  
57 efforts.

58 Section 2. Subsection (1) and paragraph (a) of subsection  
59 (2) of section 320.086, Florida Statutes, are amended to read:

60 320.086 Ancient or antique motor vehicles; horseless  
61 carriage, antique, or historical license plates; former military  
62 vehicles.—

63 (1) The owner of a motor vehicle for private use  
64 manufactured in model year 1945 or earlier and operated on the  
65 streets and highways of this state shall, upon application in  
66 the manner and at the time prescribed by the department and upon  
67 payment of the license tax for an ancient motor vehicle  
68 prescribed by s. 320.08(1)(g), (2)(a), or (3)(e) ~~s.~~



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69 ~~320.08(1)(d), (2)(a), or (3)(e)~~, be issued a special license  
70 plate for such motor vehicle. The license plate shall be  
71 permanent and valid for use without renewal so long as the  
72 vehicle is in existence. In addition to the payment of all other  
73 fees required by law, the applicant shall pay such fee for the  
74 issuance of the special license plate as may be prescribed by  
75 the department commensurate with the cost of its manufacture.  
76 The registration numbers and special license plates assigned to  
77 such motor vehicles shall run in a separate numerical series,  
78 commencing with "Horseless Carriage No. 1," and the plates shall  
79 be of a distinguishing color.

80 (2)(a) The owner of a motor vehicle for private use  
81 manufactured in a model year after 1945 and of the age of 30  
82 years or more after the model year and operated on the streets  
83 and highways of this state may, upon application in the manner  
84 and at the time prescribed by the department and upon payment of  
85 the license tax prescribed by s. 320.08(1)(g), (2)(a), or (3)(e)  
86 ~~s. 320.08(1)(d), (2)(a), or (3)(e)~~, be issued a special license  
87 plate for such motor vehicle. In addition to the payment of all  
88 other fees required by law, the applicant shall pay the fee for  
89 the issuance of the special license plate prescribed by the  
90 department, commensurate with the cost of its manufacture. The  
91 registration numbers and special license plates assigned to such  
92 motor vehicles shall run in a separate numerical series,  
93 commencing with "Antique No. 1," and the plates shall be of a  
94 distinguishing color. The owner of the motor vehicle may, upon  
95 application and payment of the license tax prescribed by s.  
96 320.08, be issued a regular Florida license plate or specialty  
97 license plate in lieu of the special "Antique" license plate.



98           Section 3. By October 1, 2023, the Department of Highway  
99 Safety and Motor Vehicles shall select a qualified program  
100 administrator and enter into the contract as specified in this  
101 act. The department shall transmit the safety education fee  
102 quarterly to the administrator, with the first payment being  
103 payable October 1, 2023.

104           Section 4. This act shall take effect July 1, 2023.

105  
106 ===== T I T L E   A M E N D M E N T =====

107 And the title is amended as follows:

108           Delete everything before the enacting clause  
109 and insert:

110                           A bill to be entitled  
111           An act relating to proceeds funding motorcycle safety  
112           education; amending s. 320.08, F.S.; requiring that  
113           the motorcycle safety education fee be used for a  
114           safety and education program administered by a certain  
115           not-for-profit corporation; providing requirements of  
116           the administrator of such program; requiring the  
117           Department of Highway Safety and Motor Vehicles to  
118           enter into a certain contract for a specified purpose;  
119           specifying the requirements of the safety awareness  
120           and education programs; requiring the administrator of  
121           the programs to file an annual report with the  
122           Legislature; amending s. 320.086, F.S.; conforming  
123           cross-references; requiring the department to select  
124           an administrator and enter into a contract by a  
125           specified date; requiring the department to transmit  
126           the safety education fee to the program administrator



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127  
128

quarterly; specifying the first payment date;  
providing an effective date.

By Senator Collins

14-01296B-23

2023838\_\_

A bill to be entitled

An act relating to proceeds funding motorcycle safety education; amending s. 320.08, F.S.; requiring a portion of Highway Safety Operating Trust Fund proceeds to fund a motorcycle driver improvement program administered by a specified nonprofit entity; providing program requirements; requiring a report to the Legislature; amending s. 322.025, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (1) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES AND MOPEDS.—

(c) Upon registration of a motorcycle, motor-driven cycle, or moped, in addition to the license taxes specified in this subsection, a nonrefundable motorcycle safety education fee in the amount of \$2.50 shall be paid. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund and shall be distributed as follows:

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

14-01296B-23

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1. One dollar shall be paid quarterly to ABATE of Florida, Inc., a nonprofit corporation, to fund a grassroots motorcycle driver improvement program consisting of activities administered by ABATE of Florida, Inc., to increase awareness for all drivers and motorcycle safety for motorcycle operators. ABATE of Florida, Inc., may use pamphlets, outdoor advertising, and personal contact with the public to enhance motorcycle awareness and safety. ABATE of Florida, Inc., shall file an annual report with the President of the Senate and the Speaker of the House of Representatives outlining the types of activities ABATE of Florida, Inc., conducted and stating the number of individuals who had exposure to the materials.

2. The remaining \$1.50 shall be used to fund a motorcycle driver improvement program implemented pursuant to s. 322.025, the Florida Motorcycle Safety Education Program established in s. 322.0255, or the general operations of the department.

Section 2. Section 322.025, Florida Statutes, is amended to read:

322.025 Driver improvement.—The department may implement programs to improve the driving ability of the drivers of this state. Such programs may include, but shall not be limited to, safety awareness campaigns, driver training, and licensing improvement. Motorcycle driver improvement programs implemented pursuant to this section or s. 322.0255 may be funded by the portion of the motorcycle safety education fee collected pursuant to s. 320.08(1)(c)2. ~~s. 320.08(1)(e)~~, which shall be deposited in the Highway Safety Operating Trust Fund.

Section 3. This act shall take effect July 1, 2023.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

APPEARANCE RECORD

3.20.2

Meeting Date

SB 838

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Transportation

Committee

Amendment Barcode (if applicable)

Name

Rich Newsome

Phone

(321) 217-9867

Address

1405 Spring Lake Drive

Email

CRNEWSOME@GMAIL.COM

Street

Orlando

State

FL

Zip

32807

City

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Agriculture, *Chair*  
Appropriations Committee on Education  
Appropriations Committee on Transportation, Tourism,  
and Economic Development  
Education Postsecondary  
Education Pre-K -12  
Fiscal Policy  
Military and Veterans Affairs, Space, and  
Domestic Security

### SELECT COMMITTEE:

Select Committee on Resiliency

### JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

### SENATOR JAY COLLINS

14th District

March 13, 2023

Senator Nick DiCeglie  
310 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Chairman DiCeglie,

I respectfully request that SB 838 – Motorcycle Safety Education be added to the calendar for the next available Transportation Committee.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", with a horizontal line underneath.

Senator Jay Collins  
Senate District 14

Cc: Rob Vickers, Staff Director  
Marilyn Hudson, Committee Administrative Assistant

### REPLY TO:

- 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 1070

INTRODUCER: Transportation Committee and Senator Hooper

SUBJECT: License Taxes

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Fav/CS</b>
2.			ATD	
3.			AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1070 imposes specified additional registration fees on certain electric vehicles. The bill defines the terms “electric vehicle” and “plug-in hybrid electric vehicle,” imposes fees on such vehicles in addition to registration fees currently assessed against non-electric vehicles, and authorizes biennial registration of such vehicles. The additional taxes imposed apply to an initial or renewal registration that has a renewal period beginning on or after October 1, 2023.

The bill provides for distribution of the proceeds of such fees to the State Transportation Trust Fund and to the county where such a vehicle is registered, and requires the Florida Department of Transportation to transfer funds allocated to a county to the Florida Department of Revenue for distribution, as specified. The bill restricts use of the proceeds to transportation expenditures, as defined in current law; exempts certain electric and plug-in hybrid electric vehicles from the additional tax; and provides that the additional fees expire on December 31, 2031. The bill also makes necessary conforming revisions.

The Revenue Estimating Conference determined on March 10, 2023, that the bill will increase State Transportation Trust Fund receipts by \$16.4 million in Fiscal Year 2023-2024 and by \$37.1 million recurring. Local government revenues are estimated to increase by \$9.2 million in fiscal year 2023-2024 and by \$20.9 million recurring. Those who register electric vehicles or plug-in hybrid electric vehicles as defined in the bill would be subject to the specified additional registration fees.

The bill takes effect July 1, 2023.

## II. Present Situation:

### The Impact of Electric Vehicles on Revenues

Annual fuel tax revenues at both the state and federal levels are directly based on the number of gallons of gasoline and diesel fuel consumed. Because some electric vehicles (EVs) are not powered by gasoline or diesel, and because others use less gasoline or diesel fuel than a conventional vehicle with only an internal combustion engine, an increase in the number of EVs operating on the roadways results in less revenue being raised from fuel taxes for comparable vehicle miles traveled.

Projections for EV sales vary, but a literature review suggests a general consensus that while EV adoption will not significantly impact state revenues in the near-term, EV sales will continue to increase over the long-term. The Florida Department of Transportation's (FDOT's) *EV Infrastructure Master Plan*, completed in July of 2021, concludes that negative impacts to motor-fuel based revenue streams in Florida could range between 5.6 percent and 20 percent by the year 2040, depending on the rate of growth of EV sales.<sup>1</sup>

### The National Perspective

Traditional funding for repairs and improvements to the nation's highways comes primarily from state and federal taxes collected at the pump. A perceived inequity may exist, in that electric vehicles do not require motor fuel to operate, or at least as much in the case of vehicles that operate on a combination of electricity and gasoline or diesel, compared to motor vehicles with internal combustion engines. The assertion is that EV owners may not be fairly contributing to the cost of constructing and maintaining public roads through payment of "traditional" registration fees.

According to the National Conference of State Legislatures (NCSL), a national "growing policy trend" has developed of imposing a separate registration fee for certain EVs to address the issues of declining revenues and fair contribution.<sup>2</sup> The following may serve to highlight the trend:

- Thirty-one states impose some form of a special registration fee for electric vehicles which is in addition to the registration fee for motor vehicles with internal combustion engines.
- Of those, 18 states also assess a fee on vehicles that operate on a combination of electricity and gasoline. The fees range from \$48.75 in Iowa to \$100 in Alabama, Arkansas, Ohio and West Virginia.
- Ten states<sup>3</sup> enacted laws in 2019 amending or adding new fees for plug-in electric and some plug-in hybrid vehicles, with fees ranging from \$50 per year in Colorado, South Dakota, and Hawaii, to \$225 for a plug-in electric vehicle in Washington.
- The enacted legislation in Alabama, Arkansas, Ohio, and Wyoming set or increased fees for EVs to \$200 annually. In 2021, South Dakota law was revised to impose a fee of \$50 for all

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<sup>1</sup> See the FDOT's *EV Infrastructure Master Plan*, p. 30 of 52, available at [fdotevmp.pdf \(windows.net\)](#) (last visited February 22, 2023).

<sup>2</sup> See [ncsl.org, Special Fees on Plug-In Hybrid and Electric Vehicles \(ncsl.org\)](#) (last visited February 22, 2023).

<sup>3</sup> Alabama, Arkansas, Hawaii, Illinois, Iowa, Kansas, North Dakota, Ohio, Washing and Wyoming.

plug-in electric vehicles, and Oklahoma tiered its EV fees based on vehicle weight. Louisiana enacted legislation in 2022 imposing a \$110 fee for EVs and a \$60 fee for plug-in hybrids.<sup>4</sup>

- At least five states tie the additional registration fees to the consumer price index or another inflation-related metric and periodically increase the fees (California, Indiana, Michigan, Mississippi, and Utah).<sup>5</sup>

### **Use of Revenues from Additional Electric Vehicle Registration Fees**

Revenue from these additional registration fees is, according to the NCSL, most often directed to a state transportation trust fund as a fair contribution to the cost of constructing and maintaining the public roads, with a few states also allocating some of the revenue to support EV charging infrastructure, for construction and maintenance of highways and bridges, and small amounts to other uses.<sup>6</sup>

### **Types of Electric Vehicles**

The U.S. Department of Energy's Alternative Fuels Data Center uses the term, "electric-drive vehicles," to collectively refer to all-electric vehicles (AEVs), hybrid electric vehicles (HEVs), and plug-in hybrid electric vehicles (PHEVs):

- AEVs use a battery to store the electric energy that powers the motor. AEVs do not have an internal combustion engine and are solely powered by electricity. AEV batteries are usually charged by plugging the vehicle into an electric power source.
- PHEVs are powered by an internal combustion engine that can run on conventional or alternative fuel and an electric motor that uses energy stored in a battery, and are plugged into an electric power source to charge the battery. PHEVs can travel various distances on electricity alone but can also operate solely on motor fuel.
- HEVs are primarily powered by an internal combustion engine that runs on conventional or alternative fuel and an electric motor that uses energy stored in a battery. An HEV battery is charged through regenerative braking and by the internal combustion engine and is not plugged in to charge.<sup>7</sup>

State definitions are not always consistent with the above definitions and contain some variation. Careful crafting of a state's definition is necessary to impose any fees as intended.

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<sup>4</sup> *Supra* note 2. Scroll down to the "State Action" heading. The definitions, fees, and fee distributions for each state are reflected under the heading *States With Fees on Plug-In and/or Electric Vehicles*.

<sup>5</sup> Two states have enacted road user charges (Oregon and Utah), also known as vehicle miles traveled fees or mileage based user fees and, according to the Transportation Investment Advocacy Center (TIAC), as of May, 2022, three states (Pennsylvania, Iowa, and Oklahoma) had enacted excise taxes on the electricity that powers electric vehicles. See the TIAC's *Electric Vehicle Excise Tax Model Language*, Appendix B, available at [2022 Electric Vehicle Excise Tax Model Language-2.pdf \(transportationinvestment.org\)](https://www.transportationinvestment.org/2022-Electric-Vehicle-Excise-Tax-Model-Language-2.pdf) (last visited February 22, 2023). However, legislation enacted in Oklahoma in 2021 imposes additional fees for electric vehicles and plug-in hybrids dependent upon the weight of the vehicle, ranging from \$110 to \$2,250 for all-electric vehicles and from \$82 to \$1,687 for plug-in hybrid electric vehicles. *Supra* note 4.

<sup>6</sup> *Supra* note 4.

<sup>7</sup> See U.S. Department of Energy, [Alternative Fuels Data Center: Electric Vehicles \(energy.gov\)](https://energy.gov/alternative-fuels-data-center) (last visited March 10, 2023).

## Florida's Registration Structure and Electric Vehicles

Florida's definition of the term "motor vehicle" for registration purposes is quite broad,<sup>8</sup> and all vehicles meeting the definition, with some exceptions, are required to be registered in this state.<sup>9</sup> Current law imposes an initial registration fee (a license tax) of \$225 on automobiles and tri-vehicles for private use, certain trucks, and motor homes and truck campers.<sup>10</sup> Thereafter, registration is generally based on the class and weight of the vehicle. The fees range generally from \$5 for a moped to \$1,322 for heavy trucks or truck tractors and wreckers.<sup>11</sup>

After monthly distributions for education purposes, for completion of the interstate highway system, and for the Florida Seaport Transportation and Economic Development (FSTED) Program, the remaining proceeds from registration fees are deposited in the STTF.<sup>12</sup>

Current law defines the term "electric vehicle" for registration purposes as a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.<sup>13</sup> The license tax for an EV is the same as that prescribed in law for a vehicle that is not electrically powered.<sup>14</sup>

Thus, Florida law currently makes no distinction between the types of EVs in its definition, as all-electric *and* hybrid electric vehicles, plug-in or regenerative, are in fact powered, in whole or in part, by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current. The definition does not require that an electric vehicle be *solely* powered as described. Additionally, Florida law does not charge a fee in addition to the registration fee for a "traditional" vehicle as some 31 other states do, for registration of electric vehicles.

## Biennial Registration

Currently, any person who owns a specified vehicle<sup>15</sup> that is required to be registered<sup>16</sup> may renew the registration biennially during the applicable renewal period upon payment of the two-year cumulative total; *i.e.*, double the amount of the applicable annual license tax (as well as the service charge and surcharge).<sup>17</sup>

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<sup>8</sup> Section 320.01(1), F.S.

<sup>9</sup> Section 320.02, F.S.

<sup>10</sup> Section 320.072, F.S.

<sup>11</sup> Section 320.08, F.S.

<sup>12</sup> Section 320.20, F.S.

<sup>13</sup> Section 320.01(36), F.S.

<sup>14</sup> Section 320.08001, F.S.

<sup>15</sup> Generally, motorcycles and mopeds; automobiles or tri-vehicles for private use; light-duty trucks and heavy duty trucks and truck tractors of a certain weight; motor vehicles for hire; trailers for private use; trailers for hire; recreational vehicle-type units; park trailers, travel trailers, and fifth-wheel trailers of a certain length; and mobile homes. *Infra* note 18.

<sup>16</sup> Sections 320.08(1)-(3), (4)(a) or (b), and (6) – (11), F.S.

<sup>17</sup> *See s.* 320.03, F.S.

## Local Option Fuel Taxes

County governments are authorized to levy up to 12 cents of local option fuel taxes in three separate levies on fuel sold within the county.<sup>18</sup> Relevant for purposes of the bill is a tax of one to six cents on every net gallon of motor and diesel fuel sold within a county.<sup>19</sup> Generally, this tax is levied by ordinance adopted by a majority vote of the governing body or upon approval by referendum.<sup>20</sup> Revenues from the tax are remitted to the Florida Department of Revenue (FDOR) by the licensed terminal supplier who owned the fuel immediately prior to removal from storage<sup>21</sup> and transferred to the Local Option Fuel Tax Trust Fund.<sup>22</sup>

The FDOR distributes the tax proceeds monthly<sup>23</sup> according to distribution factors determined at the local level by interlocal agreement between the county and municipalities within the county's boundaries. If no such agreement is established, a local government's distribution is generally based on the transportation expenditures of that local government for the immediately preceding five fiscal years as a proportion of the sum total of such expenditures for the respective county and all municipalities within the county.<sup>24</sup> County and municipal governments may use the proceeds only for "transportation expenditures."<sup>25</sup>

### III. Effect of Proposed Changes:

#### Additional License Taxes, Biennial Registration, Distribution, Exemption, and Applicability (Section 1)

The bill amends s. 320.08001, F.S., defining terms as follows:

- "Electric vehicle" means a motor vehicle that is solely powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.
- "Plug-in hybrid electric vehicle" means a motor vehicle equipped to be propelled by an internal combustion engine and an electric motor that draws current from rechargeable

<sup>18</sup> See floridarevenue.com, [Florida Dept. of Revenue - Local Option Taxes \(floridarevenue.com\)](http://floridarevenue.com) (last visited February 24, 2023).

<sup>19</sup> Section 336.025(1)(a), F.S. Local option tax rates on diesel fuel are "equalized" statewide, meaning that the full six cents, and another 1 cent per s. 336.021(1)(a), F.S., is levied on every net gallon of diesel fuel sold in every county. Seven cents' worth of local option tax revenue on diesel fuel is distributed to local governments, regardless of whether the county is levying these two taxes. *Id.*

<sup>20</sup> See s. 335.025(3)(a)1.-3. and (3)(b), F.S.

<sup>21</sup> Section 206.41(2), F.S.

<sup>22</sup> Section 336.025(2)(a), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 336.025(4)(a), F.S.

<sup>25</sup> Section 336.025(7), F.S. The term includes public transportation operations and maintenance; roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment; roadway and right-of-way drainage; street lighting installation, operation, maintenance, and repair; traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair; bridge maintenance and operation; and debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks. Note that current law authorizes the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such county to use the proceeds in any fiscal year to fund "infrastructure projects" under the conditions and as specified in s. 336.025(8), F.S.

storage batteries, fuel cells, or other sources of electrical current that are recharged by an energy source external to the motor vehicle.

An all-electric (or “battery electric”) vehicle would meet the definition of “electric vehicle,” as it is solely powered as described, but not meet the definition of “plug-in hybrid electric vehicle,” as it is not also equipped to be propelled by an internal combustion engine. The definition of “plug-in hybrid electric vehicle” excludes all-electric vehicles, as they are not equipped to be propelled by an internal combustion engine, and excludes hybrid electric vehicles, as they are not recharged by an energy source external to the motor vehicle. Under the bill, Florida law would impose fees in addition to registration fees for non-electric vehicles only on electric vehicles and plug-in hybrid electric vehicles, as defined. Hybrid electric vehicles that use regenerative braking would not be subject to an additional fee.<sup>26</sup>

The bill removes “an electric vehicle” from current law providing that the license tax for such is the same as that prescribed in s. 320.08, F.S., for a vehicle that is not electrically powered, leaving that provision applicable only to a low-speed vehicle. Instead, the bill imposes the following annual license taxes:

- For electric vehicles, in addition to the license tax prescribed in s. 320.08, F.S.,<sup>27</sup> an annual license tax of \$200, increasing to \$250 beginning January 1, 2028.
- For plug-in hybrid electric vehicles, in addition to the license tax prescribed in s. 320.08, F.S., an annual license tax of \$50, increasing to \$100 on January 1, 2028.

The additional license taxes expressly apply to an initial registration or renewal registration that has a renewal period beginning on or after October 1, 2023. Any person or entity that registers an electric or plug-in hybrid electric vehicle is authorized to renew the vehicle registration biennially.

Sixty-four percent of the proceeds from the additional license taxes imposed must be deposited into the State Transportation Trust Fund, and 36 percent must be allocated to the county where the vehicle is registered. The Department of Highway Safety and Motor Vehicles must transfer the funds allocated to a county to the FDOT for distribution to the board of county commissioners and municipalities within the county in proportion to the previous quarter’s distribution of the local option fuel taxes. Local governments must use the funds for defined transportation expenditures.<sup>28</sup>

The bill exempts from the additional annual license tax imposed under the amended section of law an electric or plug-in hybrid electric vehicle that uses a battery storage system of up to five kilowatt hours.

### **Biennial Registration (Section 2)**

The bill amends s. 320.07(2)(b), F.S., relating to biennial registration, to insert a reference to s. 320.08001, F.S., thereby authorizing biennial registration of low-speed vehicles and of the

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<sup>26</sup> Research identified only eight states that impose an additional fee on hybrid electric vehicles that use regenerative braking.

<sup>27</sup> Still the same for the same class and/or weight of a non-electric vehicle.

<sup>28</sup> *Supra* note 26.



specified vehicles that meet the definition of “electric vehicle” or “plug-in hybrid electric vehicle.”

### **Expiration of the Additional License Taxes (Section 3)**

The bill creates an undesignated section of law providing that the amendments made by the act to s. 320.08001, F.S., expire on December 31, 2031, and the text of that section reverts to that in existence on June 30, 2023, except that any amendments to such text enacted other than by the act are preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text that expire.

### **Effective Date (Section 4)**

The bill takes effect July 1, 2023.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

Article VII, s. 19, of the Florida Constitution requires that a new state tax or fee must be approved by two-thirds of the membership of each house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1), of the Florida Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.” The bill imposes license taxes in addition to the “base” registration fee for electric and plug-in hybrid electric vehicles, authorizes payment of the additional license taxes biennially, provides for distribution of the proceeds from the additional taxes, and provides an exemption from the additional fees. The bill requires a two-thirds vote of the membership of each house of the Legislature.

### **E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The bill imposes the specified additional license taxes, in addition to the existing “base” registration fees, for electric and plug-in hybrid electric vehicles, as defined.

**B. Private Sector Impact:**

Those who register electric vehicles or plug-in hybrid electric vehicles as defined in the bill would be subject to the specified additional registration fees.

**C. Government Sector Impact:**

On March 10, 2023, the Revenue Estimating Conference<sup>29</sup> determined that the bill will increase State Transportation Trust Fund receipts by \$16.4 million in Fiscal Year 2023-2024 and by \$37.1 million recurring.

Local government revenues are estimated to increase by \$9.2 million in fiscal year 2023-2024 and by \$20.9 million recurring.<sup>30</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 320.08001 and 320.07.

This bill creates an undesignated section of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The committee substitute changes a reference from “paragraph” to “subsection” for technical accuracy and clarifies that electric and plug-in hybrid electric vehicles with battery storage systems of up to five kilowatt hours are exempt from the additional annual license tax, not the base license tax.

<sup>29</sup> See the Revenue Estimating Conference’s adopted consensus estimate available at [Microsoft Word - 2 - SB 1070 - Revised \(state.fl.us\)](#) (last visited March 10, 2023).

<sup>30</sup> *Id.*

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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948716

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2023	.	
	.	
	.	
	.	

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The Committee on Transportation (Hooper) recommended the following:

**Senate Amendment**

Delete lines 64 - 68

and insert:

received pursuant to this subsection for transportation expenditures as defined in s. 336.025(7).

(7) An electric or a plug-in hybrid electric vehicle that uses a battery storage system of up to 5 kilowatt hours is exempt from the additional annual license tax imposed under this section.

By Senator Hooper

21-01168C-23

20231070\_\_

1 A bill to be entitled  
 2 An act relating to license taxes; amending s.  
 3 320.08001, F.S.; defining the terms "electric vehicle"  
 4 and "plug-in hybrid vehicle"; conforming a provision  
 5 to changes made by the act; imposing specified  
 6 additional annual license taxes on electric vehicles;  
 7 increasing such tax at a certain time; imposing  
 8 specified additional annual license tax on plug-in  
 9 hybrid electric vehicles; increasing such tax at a  
 10 certain time; authorizing persons and entities to  
 11 biennially renew vehicle registrations for electric  
 12 vehicles and plug-in hybrid electric vehicles;  
 13 providing for the distribution of proceeds from the  
 14 additional license taxes; specifying requirements for  
 15 the use of the proceeds by local governments;  
 16 providing that certain vehicles are exempt from  
 17 specified license taxes; providing applicability;  
 18 amending s. 320.07, F.S.; conforming provisions to  
 19 changes made by the act; providing for future  
 20 expiration; providing an effective date.

21  
 22 Be It Enacted by the Legislature of the State of Florida:

23  
 24 Section 1. Section 320.08001, Florida Statutes, is amended  
 25 to read:

26 320.08001 Low-speed, electric, and plug-in hybrid electric  
 27 vehicles; license tax.-

28 (1) For purposes of this section, the term:

29 (a) "Electric vehicle" means a motor vehicle that is solely

Page 1 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

21-01168C-23

20231070\_\_

30 powered by an electric motor that draws current from  
 31 rechargeable storage batteries, fuel cells, or other sources of  
 32 electrical current.

33 (b) "Plug-in hybrid electric vehicle" means a motor vehicle  
 34 equipped to be propelled by an internal combustion engine and an  
 35 electric motor that draws current from rechargeable storage  
 36 batteries, fuel cells, or other sources of electrical current  
 37 that are recharged by an energy source external to the motor  
 38 vehicle.

39 (2) The license tax for a ~~an electric vehicle or~~ low-speed  
 40 vehicle is the same as that prescribed in s. 320.08 for a  
 41 vehicle that is not electrically powered.

42 (3) In addition to the license tax prescribed in s. 320.08,  
 43 there is imposed an annual license tax of \$200 on electric  
 44 vehicles. Beginning January 1, 2028, the additional annual  
 45 license tax shall be \$250.

46 (4) In addition to the license tax prescribed in s. 320.08,  
 47 there is imposed an annual additional license tax of \$50 on  
 48 plug-in hybrid electric vehicles. Beginning January 1, 2028, the  
 49 additional annual license tax shall be \$100.

50 (5) Any person or entity that registers a vehicle  
 51 identified in subsection (3) or subsection (4) may renew the  
 52 vehicle registration biennially in accordance with s.  
 53 320.07(2)(b).

54 (6) Of the proceeds from the additional annual license  
 55 taxes imposed under subsections (3) and (4), 64 percent must be  
 56 deposited into the State Transportation Trust Fund and 36  
 57 percent must be allocated to the county where the vehicle is  
 58 registered. Each quarter, the department shall transfer the

Page 2 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

21-01168C-23

20231070\_\_

59 funds allocated to a county to the Department of Revenue for  
 60 distribution to the board of county commissioners and  
 61 municipalities within the county in proportion to the previous  
 62 quarter's distribution of the local option fuel taxes authorized  
 63 under s. 336.025(1)(a). Local governments shall use moneys  
 64 received pursuant to this paragraph for transportation  
 65 expenditures as defined in s. 336.025(7).

66 (7) A low-speed, electric, or plug-in hybrid electric  
 67 vehicle that uses a battery storage system of up to 5 kilowatt  
 68 hours is exempt from any license tax imposed under this section.

69 (8) The additional license taxes imposed by this section  
 70 apply to an initial registration or renewal registration that  
 71 has a renewal period beginning on or after October 1, 2023.

72 Section 2. Paragraph (b) of subsection (2) of section  
 73 320.07, Florida Statutes, is amended to read:

74 320.07 Expiration of registration; renewal required;  
 75 penalties.—

76 (2) Registration shall be renewed semiannually, annually,  
 77 or biennially, as provided in this subsection, during the  
 78 applicable renewal period, upon payment of the applicable  
 79 license tax amounts required by s. 320.08, service charges  
 80 required by s. 320.04, and any additional fees required by law.

81 (b) Any person who owns a motor vehicle or mobile home  
 82 registered under s. 320.08(1), (2), (3), (4)(a) or (b), (6),  
 83 (7), (8), (9), (10), or (11) may renew the vehicle registration  
 84 biennially during the applicable renewal period upon payment of  
 85 the 2-year cumulative total of all applicable license tax  
 86 amounts required by ss. 320.08 and 320.08001, as applicable, ~~ss.~~  
 87 ~~320.08~~ and service charges or surcharges required by ss. 320.03,

21-01168C-23

20231070\_\_

88 320.04, 320.0801, 320.08015, 320.0802, 320.0804, 320.0805,  
 89 320.08046, and 320.08056 and payment of the 2-year cumulative  
 90 total of any additional fees required by law for an annual  
 91 registration.

92 Section 3. The amendments made by this act to s. 320.08001,  
 93 Florida Statutes, expire on December 31, 2031, and the text of  
 94 that section shall revert to that in existence on June 30, 2023,  
 95 except that any amendments to such text enacted other than by  
 96 this act shall be preserved and continue to operate to the  
 97 extent that such amendments are not dependent upon the portions  
 98 of text which expire pursuant to this section.

99 Section 4. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

3/20/23

Meeting Date

SB 1070

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

JEFF SHARLEY

Phone

850 224 1660

Address

106 E Colley Ave #110

Email

JEFFREYSHARLEY@GMAIL.COM

Street

TH

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

TESLA

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

SB 1070

3/20/23

Meeting Date

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Bill Number or Topic

S Transportation

Committee

Amendment Barcode (if applicable)

Name Jared Grigas

Phone (850) 322-0229

Address 100 S Monroe St

Email jgrigas@fl-counties.com

Street

Tallahassee

State

FL

32301

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Fl. Assoc. of Counties

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)



The Florida Senate

# APPEARANCE RECORD

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8/20/23

Meeting Date

SB 1070

Bill Number or Topic

Transportation

Committee

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 521-1200

Address 130 S Bronaugh St  
Street

Email cjohnson@flchamber.com

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Chamber of Commerce

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1070

03/20/2023

Meeting Date

Bill Number or Topic

TRANSPORTATION

Committee

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Amendment Barcode (if applicable)

Name

ANANTH PRASAD

Phone

(850) 942-1405

Address

1007 E DESOTO PARK DRIVE

Email

aprasad@ftba.com

Street

TALLAHASSEE FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FTBA

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



*The Florida Senate*

## Committee Agenda Request

**To:** Senator Nick DiCeglie, Chair  
Committee on Transportation

**Subject:** Committee Agenda Request

**Date:** March 7, 2023

---

I respectfully request that **Senate Bill # 1070**, relating to License Taxes, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper  
Florida Senate, District 21

The Florida Senate  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Transportation

---

BILL: CS/SB 1250

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Department of Transportation

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Fav/CS</b>
2.			ATD	
3.			FP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1250 contains the Florida Department of Transportation's (FDOT's) 2023 legislative proposals. The bill:

- Adds rating agency services to the list of contractual services and commodities not subject to certain competitive solicitation requirements.
- Provides that the prohibition against use of bond proceeds for acquisition of any building or facility that will be, during the pendency of financing, used by, occupied by, leased to, or paid for by any state, county or municipal agency or entity does not prohibit the use of proceeds from Florida Development Finance Corporation private activity bonds to finance acquisition or construction of a transportation facility under a public-private partnership.
- Authorizes the Florida Development Finance Corporation to issue revenue bonds to finance the costs of acquisition or construction of a transportation facility by a private entity or a consortium of private entities under a specified public-private partnership.
- Authorizes the FDOT to fund up to 100 percent of project costs for eligible intermodal logistics center projects in rural areas of opportunity.
- Authorizes the FDOT, subject to availability of appropriate funds, and unless otherwise provided in the General Appropriations Act or the Implementing bill, to fund certain projects at a publicly owned, publicly operated airport located in a rural community which does not have any scheduled commercial service.
- Requires the FDOT's rules governing public airport site approval to include a requirement that an applicant provide a copy of a written memorandum of understanding or letter of agreement regarding air traffic pattern separation procedures between the parties representing

a proposed airport and any existing airport or any approved airport site located within three miles of the proposed site, signed by each of the respective parties, but only if required by a final Federal Aviation Administration airspace determination letter or deemed necessary by the FDOT.

- Authorizes installation, as specified, of automated license plate recognition systems within the rights-of-way of the State Highway System at the discretion of the FDOT when installed at the request of a law enforcement agency for the purpose of collecting active criminal intelligence or investigative information.
- Authorizes the FDOT to purchase promotional items for the promotion of electric vehicle use and charging stations, autonomous vehicles, and context design for electric vehicles and autonomous vehicles.
- Authorizes the FDOT to expend funds, within its discretion, for training, testing, and licensing for full-time employees of the FDOT who are required to have a valid Class A or Class B commercial driver license as a condition of employment with the FDOT.
- Increases from \$250K to \$500K the cap on entering into contracts for construction and maintenance without advertising and receiving competitive bids for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work.
- Removes the expiration date of a provision allowing the chair and vice chair of the Legislative Budget Commission to authorize an FDOT work program amendment if the Commission does not meet or consider the amendment within 30 days after its submittal.
- Requires that public transit development plans of eligible providers of public transit block grants be consistent, to the maximum extent feasible, with the long-range transportation plans of the metropolitan planning organization in which the provider is located.
- Removes from annual public transit provider reports a requirement to specifically address potential enhancements to productivity and performance that would have the effect of increasing farebox recovery ratio; and requires each public transit provider to publish on its website, rather than in the local newspaper, the productivity and performance measures established for the year and a report on attainment of such measures.
- Repeals part IV of Chapter 348, F.S., relating to the creation and operation of the Santa Rosa Bay Bridge Authority; transfers governance and control of the Authority and its bridge system and any remaining assets and rights to the FDOT; authorizes the FDOT to assume legal liability for contractual obligations determined to be necessary and authorizes transfer of the bridge system to the Turnpike.

The bill's fiscal impact is indeterminate. See the "Fiscal Impact Statement" heading for additional information.

Except as otherwise provided, the bill takes effect July 1, 2023.

## **II. Present Situation:**

For ease of organization and readability, the present situation is discussed below in conjunction with the effect of the proposed changes.

### III. Effect of Proposed Changes:

#### Rating Agency Procurement (Section 1)

##### *Present Situation*

Generally, if the purchase price of commodities or contractual services exceeds the threshold amount specified in s. 287.017, F.S., for CATEGORY TWO (\$35,000), the commodities or contractual services must be procured by receiving competitive sealed bids, competitive sealed proposals, or competitive sealed replies.<sup>1</sup> A number of exceptions to the general rule are present in current law. In addition, current law provides a list of 13 commodities and contractual services that are not subject to the competitive solicitation requirements.<sup>2</sup>

The FDOT advises that rating agencies<sup>3</sup> do not compete in the market by responding to requests for information, for applications, for quotations, or for proposals. When rating agency services are needed, the FDOT “must engage them via Sole Source procurement for the Agency to be able to analyze the bond and then discuss analysis with FDOT.”<sup>4</sup>

Procurement of commodities or contractual services available only from a single source is one of the exceptions to the general rule noted above. Current law contains a number of requirements imposed on an agency believing that commodities or contractual services are available only from a single source, such as electronically posting a description of the desired commodities or services and providing a notice of the agency’s intended decision to enter a single source purchase contract.<sup>5</sup>

The FDOT advises that “Exempting Rating Agencies from competitive contracting services improves speed of delivery for analyzing bonding instruments.”<sup>6</sup>

##### *Effect of Proposed Changes*

The bill amends s. 287.057(3)(e), F.S., to add rating agency services to the list of contractual services and commodities that are not subject to the competitive-solicitation requirements of that section. The FDOT would not be required to comply with the statutory requirements for procurement available only from a single source.

---

<sup>1</sup> Section 287.057(3), F.S.

<sup>2</sup> Section 287.057(3)(e), F.S. These include, for example, commodities or services such as artistic services, legal services, and certain substance abuse and mental health services.

<sup>3</sup> “Bond rating agencies work somewhat like credit bureaus in that they both research financial information to determine creditworthiness. But instead of assessing an individual’s likelihood of repaying their debts, a bond rating agency determines whether the issuers of debt securities like bonds are likely to fulfill their promises to pay interest and repay the principal you loaned them.” See Forbes Advisor, [What Are Bond Rating Agencies? – Forbes Advisor](#) (last visited February 8, 2023).

<sup>4</sup> See the FDOT response to staff questions, Question 7 (on file in the Senate Transportation Committee).

<sup>5</sup> Section 287.057(3)(c), F.S.

<sup>6</sup> *Supra* note 4.

## Infrastructure Financing/Private Activity Bonds (Section 2)

### *Present Situation*

Generally, a private activity bond (PAB) is a tax-exempt security issued by or on behalf of a local or state government for the purpose of extending special financing benefits for qualified projects. PABs finance projects for a private user, and the governmental issuer's credit usually isn't pledged, but PABs provide a public benefit as well. They are used to attract private investments for projects "that have public or common utility," and result in increased spending on infrastructure."<sup>7</sup>

The federal government controls the amount of private activity bonds that are permitted to be issued in each state. Part VI of ch. 159, F. S., establishes statewide procedures for allocating Florida's share of private activity bonds. Such allocation is statutorily referred to as the allocation of state volume limitation (s. 159.804, F.S.). The Division of Bond Finance of the State Board of Administration is responsible for annually determining the amount of the private activity bonds permitted for statewide allocation under the 1986 Internal Revenue Code, as amended. Generally, "traditional" road and bridge projects are not qualified under state private activity volume caps, but there is a private activity volume cap available at the federal level for such transportation projects, which was recently increased from \$15 to \$30 billion:

According to the United State Department of Transportation:

Section 11143 of Title XI of SAFETEA-LU amended Section 142 of the Internal Revenue Code to add highway and freight transfer facilities to the types of privately developed and operated projects for which private activity bonds (PABs) may be issued. This change allowed private activity on these types of projects, while maintaining the tax-exempt status of the bonds. The law limited the total amount of the bonds to \$15 billion and directed the Secretary of Transportation to allocate this amount among qualified facilities. The Infrastructure Investment and Jobs Act signed into law on November 15, 2021 increased the available PAB authority from \$15 billion to \$30 billion. Passage of the private activity bond legislation reflects the Federal Government's desire to increase private sector investment in U.S. transportation infrastructure. Providing private developers and operators with access to tax-exempt interest rates lowers the cost of capital significantly, enhancing investment prospects. Increasing the involvement of private investors in highway and freight projects generates new sources of money, ideas, and efficiency. The \$30 billion in exempt facility bonds is not subject to the state volume caps.<sup>8</sup>

In Florida, access to PABs is provided by the Florida Development Finance Corporation (FDPC),<sup>9</sup> the "conduit issuer" of PABs, with the power to function within the corporate limits of

---

<sup>7</sup> See MunicipalBonds.com, [Understanding Private Activity Bonds \(municipalbonds.com\)](https://www.municipalbonds.com) (last visited March 7, 2023).

<sup>8</sup> See transportation.gov, [Private Activity Bonds | Build America \(transportation.gov\)](https://www.transportation.gov) (last visited March 7, 2023).

<sup>9</sup> Created in s. 288.9604, F.S. The board consists of seven directors. The secretary of Economic Opportunity, or designee, serves as the chair of the board. The director of the Division of Bond Finance, or designee, serves as a director. The Governor appoints the remaining five directors, subject to confirmation by the Senate.

any public agency with which it has entered into an interlocal agreement. The FDFC issues the bonds, which are purchased by a bank or investor(s). The proceeds from the sale are then loaned to finance capital projects. The interest received by the investor, if specific criteria are met, is exempt from federal income tax.<sup>10</sup>

Current law provides that the proceeds of any bonds of the FDFC may not be used, in any manner, to acquire any building or facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity.<sup>11</sup>

The FDFC is currently authorized, without authorization from a public agency,<sup>12</sup> to issue revenue bonds to:

- Finance the undertaking of any projects within the state that promotes renewable energy;
- Finance the undertaking of any project within the state that is a project contemplated or allowed under the American Recovery and Reinvestment Act of 2009; or
- If permitted by federal law, finance qualifying improvement projects with the state under s. 163.08, F.S.<sup>13</sup>

Section 334.30, F.S., authorizes the FDOT to enter into public-private partnerships with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. Such agreements, with associated PAB financing, may result in use of proceeds of the FDFC bonds to acquire a transportation facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity.

### *Effect of Proposed Changes*

The bill amends s. 288.9606(6), F.S., providing that the prohibition against use of the proceeds of any FDFC bonds to acquire any building or facility that will be, during the pendency of the financing, used by, occupied by, leased to, or paid for by any state, county, or municipal agency or entity, does not prohibit the use of proceeds of the bonds of the FDFC for the purpose of financing the acquisition or construction of a transportation facility under a public-private partnership agreement authorized under s. 334.30, F.S.

The bill also amends s. 288.9606(7), F.S., authorizing the FDFC, without authorization from a public agency under s. 163.01(7), F.S., to issue bonds or other evidence of indebtedness to finance the costs of acquisition or construction of a transportation facility by a private entity or consortium of private entities under a public-private partnership agreement authorized by s. 334.30, F.S.

---

<sup>10</sup> See [fdpace.com](http://fdpace.com), [Private Activity Bonds | FDFC \(fdpace.com\)](http://fdpace.com/Private-Activity-Bonds-FDFC) (last visited March 7, 2023).

<sup>11</sup> Section 288.0606(6), F.S.

<sup>12</sup> Section 163.01(7), F.S., authorizes an interlocal agreement for a separate legal or administrative entity to administer an interlocal agreement authorizing a public agency of this state to exercise jointly with any other public agency of the state, of any other state, or of the United States Government any power, privilege, or authority which such agencies share in common and which each might exercise separately.

<sup>13</sup> See s. 163.08(2)(b), F.S., for a listing of such improvements, available at [Chapter 163 Section 08 - 2022 Florida Statutes - The Florida Senate \(flsenate.gov\)](http://www.flsenate.gov) (last visited March 7, 2023).



## **Automated License Plate Recognition Systems/State Highway System (Section 4)**

### ***Present Situation***

An automated license plate recognition system (ALPRS) is a system of mobile or fixed high-speed cameras combined with computer algorithms to convert images of license plates into computer-readable data.<sup>14</sup> Data obtained from an ALPRS is generally used to check license plates against law enforcement hot lists. Hot lists contain a list of stolen plates and vehicles entered into the National Crime Information Center database, the Florida Crime Information Center database, Driver and Vehicle Information Database, and any information entered manually by the operating member. Examples of manual entries include, but are not limited to: attempt to locate; AMBER/SILVER alerts, child abductions, missing or wanted persons, and registered sexual predators.<sup>15</sup>

Though designed to assist law enforcement with day-to-day vehicle violations, an ALPRS may collect and store extensive location information about each vehicle in its field of vision. Photographs captured by an ALPRS may contain more than simply the license plate, and sometimes include a substantial part of a vehicle, its occupants, and its immediate vicinity. Law enforcement can use captured photographs to verify witness descriptions of vehicles and confirm identifying features.

Florida law requires the Department of State in consultation with the Department of Law Enforcement to establish a retention schedule, including a maximum period that records may be retained, for records containing images and data generated through the use of an ALPRS.<sup>16</sup> The Department of State specifies the retention of license plate recognition records: “Retain until obsolete, superseded, or administrative value is lost, but no longer than 3 anniversary years unless required to be retained under another record series.”<sup>17</sup>

Images and data containing or providing personal identifying information held by an agency and obtained by an ALPRS, as well as personal identifying information derived from ALPRS data or images is confidential and exempt from public record requirements.<sup>18</sup> Such information may be disclosed under the following conditions:

- By or to a criminal justice agency, as defined in s. 119.011(4), F.S., in performance of the agency’s official duties.

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<sup>14</sup> Section 316.0778(1), F.S.

<sup>15</sup> Florida Department of Highway Safety and Motor Vehicles’ “Florida Highway Patrol Policy Manual” on ALPRS available at: <https://www.flhsmv.gov/pdf/fhp/policies/1725.pdf> (last visited March 17, 2023).

<sup>16</sup> Section 316.0778(2), F.S.

<sup>17</sup> Florida Department of State, General Records Schedule GS2 for Law Enforcement, Correctional Facilities and District Medical Examiners, Effective: February 2021, available at: [GS2 for Law Enforcement \(windows.net\)](#) (last visited March 17, 2023).

<sup>18</sup> Section 316.0777(2), F.S.

- To a license plate registrant requesting his or her own information, unless such information constitutes active criminal intelligence information<sup>19</sup> or active criminal investigative information.<sup>20</sup>

### *Effect of Proposed Changes*

The bill creates a new subsection (2) of s. 316.0777, F.S., defining the term “law enforcement agency” for purposes of that subsection to mean an agency that has a primary mission of preventing and detecting crime and enforcing the state penal, criminal, traffic, and motor vehicle laws and in furtherance of that mission employs law enforcement officers as defined in s. 943.10(1), F.S.<sup>21</sup>

The bill authorizes, at the discretion of the FDOT, installation of ALPRSs within the rights-of-way<sup>22</sup> of any road on the State Highway System when installed at the request of a law enforcement agency for the purpose of collecting active criminal intelligence information or active criminal investigative information. Such installations must be in accordance with placement and installation guidelines developed by the FDOT and be removed within 30 days after the FDOT notifies the requesting law enforcement agency that such removal must occur at the sole expense of the requesting agency.

The bill provides that the FDOT is not liable for any damages caused to any person by the requesting law enforcement agency’s operation of an ALPRS, and prohibits retention of records containing images and data generated through use of an ALPR for longer than the maximum period provided in the applicable retention schedule.<sup>23</sup>

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<sup>19</sup> Defined to mean information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity. Section 119.011(3)(a), F.S. Criminal intelligence information is considered “active” as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities. Section 119.011(3)(d)1., F.S.

<sup>20</sup> Defined to mean information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance. Section 119.011(3)(b), F.S. Criminal investigative information is considered “active” as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future. Section 119.011(3)(d)2., F.S.

<sup>21</sup> As defined in that section, “law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

<sup>22</sup> Defined in s. 334.03(21), F.S., to mean land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.

<sup>23</sup> *Supra* note 17.

## **Intermodal Logistics Center Infrastructure Support Program Projects/Rural Areas of Opportunity (Section 3)**

### ***Present Situation***

The Intermodal Logistics Center Infrastructure Support Program (ILC Program) is statutorily established within the FDOT,<sup>24</sup> with the purpose of providing funds for roads, rail facilities, or other means for the conveyance or shipment of goods through a seaport, thereby enabling the state to respond to private sector market demands and meet the state's economic development goal of becoming a hub for trade, logistics, and export-oriented activities. The FDOT is authorized to provide funds to assist with local government projects or projects performed by private entities that meet the public purpose of enhancing transportation facilities for the conveyance or shipment of goods through a seaport to or from an intermodal logistics center.<sup>25</sup>

When evaluating projects for ILC Program assistance, the FDOT must consider, but is not limited to, the following criteria:

- The ability of the project to serve a strategic state interest.
- The ability of the project to facilitate the cost-effective and efficient movement of goods.
- The extent to which the project contributes to economic activity, including job creation, increased wages, and revenues.
- The extent to which the project efficiently interacts with and supports the transportation network.
- A commitment of a funding match.
- The amount of investment or commitments made by the owner or developer of the existing or proposed facility.
- The extent to which the owner has commitments, including memoranda of understanding or memoranda of agreements, with private sector businesses planning to locate operations at the intermodal logistics center.
- Demonstrated local financial support and commitment to the project.<sup>26</sup>

The FDOT must coordinate and consult with the Department of Economic Opportunity in the selection of projects to be funded,<sup>27</sup> and the FDOT must provide up to 50 percent of project costs for eligible projects.<sup>28</sup>

The Rural Economic Development Initiative (REDI) was established by the 1999 Legislature to encourage and facilitate the location and expansion of major economic development projects of significant scale in rural communities.<sup>29</sup> The REDI is responsible for coordinating and focusing

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<sup>24</sup> Section 311.101, F.S.

<sup>25</sup> Section 311.101(1), F.S. The term "intermodal logistics center," which includes, but is not limited to and "inland port," is defined to mean a facility or group of facilities serving as a point of intermodal transfer of freight in a specific area physically separated from a seaport where activities relating to transport, logistics, goods distribution, consolidation, or value-added activities are carried out and who activities and services are designed to support or be supported by conveyance or shipping through one or more seaports listed in s. 311.09, F.S. Section 311.101(2), F.S.

<sup>26</sup> Section 311.101(3), F.S.

<sup>27</sup> Section 311.101(4), F.S.

<sup>28</sup> Section 311.101(6), F.S. The FDOT is also authorized to administer contracts on behalf of the entity selected to receive funding for a project under the ILC Program. Section 311.101(5), F.S.

<sup>29</sup> Section 288.0656, F.S.

the efforts and resources of state and regional agencies on the problems that affect the fiscal, economic, and community viability of Florida's economically distressed rural communities.<sup>30</sup> The REDI works with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs.

A rural area of opportunity (RAO) is a rural community,<sup>31</sup> or a region of rural communities, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.<sup>32</sup> The Governor may designate by executive order up to three RAOs, establishing the areas as priority assignments for the REDI. The Governor may waive criteria, requirements, or similar provisions of any economic development incentive for projects located in an RAO.<sup>33</sup> The designated RAOs are:

- The Northwest RAO, comprised of Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the area within the city limits of Freeport and north of the Choctawhatchee Bay and intercoastal waterway;
- The South Central RAO, comprised of DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County); and
- The North Central RAO, comprised of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.<sup>34</sup>

### *Effect of Proposed Changes*

The bill amends s. 311.101(6), F.S., authorizing the FDOT to provide up to 100 percent of project costs for eligible ILC Program projects in rural areas of opportunity designated in accordance with s. 288.0656(7)(a), F.S.

<sup>30</sup> Agencies required to participate in the REDI are listed in s. 288.0656(6)(a), F.S.

<sup>31</sup> "Rural community" means: 1. A county with a population of 75,000 or fewer; 2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; 3. A municipality within a county described in 1. or 2.; or 4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in s. 288.0656(c), F.S. "Economic distress" means conditions affecting the fiscal and economic viability of a rural community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities.

<sup>32</sup> Section 288.0656(1)(d), F.S.

<sup>33</sup> Section 288.0656(7)(a), F.S.

<sup>34</sup> Florida Department of Economic Opportunity, *Rural Areas of Opportunity*, <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited March 17, 2023).

## **Airport Projects/Rural Communities (Section 5)**

### ***Present Situation***

Current law requires the FDOT to continuously update an aviation and airport work program based on a collection of local sponsors' <sup>35</sup> proposed projects to be included in the FDOT's work program. The airport work program must separately identify "development projects" <sup>36</sup> and "discretionary capacity improvement projects." <sup>37</sup> The aviation and airport work program must be consistent with the statewide aviation system plan <sup>38</sup> and, to the maximum extent feasible, with approved local government comprehensive plans. Projects involving funds administered by the FDOT to be undertaken and implemented by the airport sponsor shall be included in the aviation and airport work program, and assistance may only be provided for projects which are so included. <sup>39</sup>

The annual legislative budget request for aviation and airport development projects must be based on the funding required for development projects in the aviation and airport work program. The FDOT must provide priority funding in support of the planning, design, and construction of proposed projects by local sponsors, with special emphasis on projects for runways and taxiways, including the painting and marking of runways and taxiways, lighting, other related airside activities, and airport access transportation facility projects on airport property. <sup>40</sup>

No single airport may receive airport or aviation development project funds in excess of 25 percent of the total airport or aviation development project funds available in any given budget year. However, any airport which receives discretionary capacity improvement project funds in a

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<sup>35</sup> "Sponsor" means any eligible agency which, either individually or jointly with one or more eligible agencies, submits to the department an application for financial assistance for an airport development project. Section 332.004(15), F.S. Federal funding of individual local airport projects is wholly between the local airport sponsors and the appropriate federal agencies; however, the FDOT is authorized to receive federal grants for statewide projects when no local sponsor is available. Section 332.2007(1), F.S.

<sup>36</sup> "Airport or aviation development project" or "development project" means any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof, including, but not limited to: the purchase of equipment; the acquisition of land, including land required as a condition of a federal, state, or local permit or agreement for environmental mitigation; off-airport noise mitigation projects; the removal, lowering, relocation, marking, and lighting of airport hazards; the installation of navigation aids used by aircraft in landing at or taking off from a public airport; the installation of safety equipment required by rule or regulation for certification of the airport under s. 612 of the Federal Aviation Act of 1958, and amendments thereto; and the improvement of access to the airport by road or rail system which is on airport property and which is consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government in which the airport is located. Section 332.004(4), F.S.

<sup>37</sup> "Airport or aviation discretionary capacity improvement projects" or "discretionary capacity improvement projects" means capacity improvements which are consistent, to the maximum extent feasible, with the approved local government comprehensive plans of the units of local government in which the airport is located, and which enhance intercontinental capacity at airports which: are international airports with United States Bureau of Customs and Border Protection; had one or more regularly scheduled intercontinental flights during the previous calendar year or have an agreement in writing for installation of one or more regularly scheduled intercontinental flights upon the commitment of funds for stipulated airport capital improvements; and have available or planned public ground transportation between the airport and other major transportation facilities. Section 332.004(5), F.S.

<sup>38</sup> The FDOT is required to develop and periodically update a statewide aviation system plan that summarizes 5-year, 10-year, and 20-year airport and aviation needs within the state, per s. 332.006, F.S.

<sup>39</sup> Section 332.007(1)-(3), F.S.

<sup>40</sup> Section 332.007(4)(a), F.S.

given fiscal year may not receive greater than ten percent of total aviation and airport development project funds appropriated in that fiscal year.<sup>41</sup>

Subject to the availability of appropriated funds, the FDOT may generally participate in the capital cost of eligible public airport and aviation development projects in accordance with the following rates, unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act:

- Up to 50 percent of the portion of eligible project costs which are not funded by the Federal Government, except that the FDOT may initially fund up to 75 percent of the cost of land acquisition for a new airport or for the expansion of an existing airport which is owned and operated by a municipality, a county, or an authority. The FDOT must be reimbursed when federal funds become available or within ten years after the date of acquisition, whichever is earlier.<sup>42</sup>
- Up to 50 percent of the nonfederal share for land acquisition when such land is needed for airport safety, expansion, tall structure control, clear zone protection, or noise impact reduction, which the FDOT may retroactively reimburse to cities, counties, or airport authorities.<sup>43</sup>
- Up to 80 percent of master planning and eligible aviation development projects at publicly owned, publicly operated airports when federal funds are not available, and up to 80 percent of the nonfederal share when federal funds are available. This funding is limited to general aviation airports<sup>44</sup> or commercial service airports<sup>45</sup> that have fewer than 100,000 passenger boardings per year as determined by the Federal Aviation Administration.<sup>46</sup>
- Up to 100 percent of the cost of an eligible project that is statewide in scope or that involves more than one county where no other governmental entity or appropriate jurisdiction exists.<sup>47</sup>

Subject to the availability of appropriated funds in addition to aviation fuel tax revenues,<sup>48</sup> the FDOT may participate in the capital cost of eligible public airport and aviation discretionary

<sup>41</sup> Section 332.007(4)(c), F.S.

<sup>42</sup> Section 332.007(6)(a), F.S. Such projects must be contained in the Federal Government's Airport Capital Improvement Program, and the Federal Government must fund, or have funded, the first year of the project. The national Airports Capital Improvement Plan (ACIP) is an internal FAA document that serves as the primary planning tool for identifying and prioritizing critical airport development and associated capital needs for the National Airspace System. It also serves as the basis for the distribution of grant funds under the Airport Improvement Program. See [faa.gov](http://faa.gov), [Airports Capital Improvement Plan | Federal Aviation Administration \(faa.gov\)](#) (last visited March 19, 2023). The Airport Improvement Program provides grants to public agencies — and, in some cases, to private owners and entities — for the planning and development of public-use airports. See [faa.gov](http://faa.gov), [Overview: What is AIP & What is Eligible? | Federal Aviation Administration \(faa.gov\)](#) (last visited March 19, 2023).

<sup>43</sup> Section 332.007(6)(b), F.S. However, no land purchased prior to July 1, 1990, or purchased prior to executing the required FDOT agreements shall be eligible for reimbursement.

<sup>44</sup> A general aviation airport is a public-use airport that does not have scheduled service or has scheduled service with less than 2,500 passenger boardings each year. See [faa.gov](http://faa.gov), [Airport Categories | Federal Aviation Administration \(faa.gov\)](#) (last visited March 19, 2023).

<sup>45</sup> A commercial service airport is a publicly owned airport with at least 2,500 annual enplanements and schedule air carrier service. *Id.*

<sup>46</sup> Section 332.007(6)(c), F.S.

<sup>47</sup> Section 332.007(6)(d), F.S.

<sup>48</sup> The aviation fuel tax is imposed in accordance with s. 206.9825, F.S. Aviation fuel tax revenues are initially deposited in the Fuel Tax Collection Trust Fund. After deducting the service charges imposed by s. 215.20, F.S., the refunds granted pursuant to s. 206.9855, F.S., and the administrative costs incurred by the Department of Revenue in collecting,

capacity improvement projects. The annual legislative budget request must also be based on the funding required for discretionary capacity improvement projects in the aviation and airport work program.<sup>49</sup> The FDOT is required to provide priority funding in support of:

- Land acquisition that provides additional capacity at the qualifying international airport or at that airport's supplemental air carrier airport,
- Runway and taxiway projects that add capacity or are necessary to accommodate technological changes in the aviation industry,
- Airport access transportation projects that improve direct airport access and are approved by the airport sponsor,
- International terminal projects that increase international gate capacity.<sup>50</sup>

No single airport may receive discretionary capacity improvement project funds in excess of 50 percent of the total discretionary capacity improvement project funds available in any given budget year.<sup>51</sup>

The FDOT may fund up to 50 percent of the portion of eligible project costs which are not funded by the Federal Government, except that the FDOT may initially fund up to 75 percent of the cost of land acquisition for a new airport or for the expansion of an existing airport which is owned and operated by a municipality, a county, or an authority. The FDOT must be reimbursed when federal funds become available or within 10 years after the date of acquisition, whichever is earlier.<sup>52</sup>

The FDOT is authorized in s. 339.2821, F.S., to expend funds and contract with the appropriate governmental body<sup>53</sup> for the direct costs of "transportation projects"<sup>54</sup> which the FDOT, in consultation with the Florida Department of Economic Opportunity (FDEO), deems necessary to facilitate the economic development and growth of the state. When reviewing projects for approval and funding, the FDOT, in consultation with the FDEO, must consider:

- The cost per job created or retained considering the amount of transportation funds requested and the average hourly rate of wages for jobs created;
- The reliance on any program as an inducement for determining the transportation project's location;
- The amount of capital investment to be made by a business and the demonstrated local commitment;

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administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, are distributed monthly to the State Transportation Trust Fund per s. 206.9845, F.S.

<sup>49</sup> Section 332.007(7), F.S.

<sup>50</sup> Section 332.007(7)(a), F.S.

<sup>51</sup> Section 332.007(7)(b), F.S.

<sup>52</sup> Section 332.007(7)(d), F.S.

<sup>53</sup> Defined to mean an instrumentality of the state or a county, municipality, district, authority, board, or commission, or an agency thereof, within which jurisdiction the transportation project is located and which is responsible to the FDOT for the transportation project. Section 339.2821(1)(b)2., F.S.

<sup>54</sup> Defined to mean a "transportation facility," which is any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place. Section 334.03(30), F.S.

- The location of the transportation project in an enterprise zone as designated in s. 290.0055, F.S.,<sup>55</sup> or in a spaceport territory defined in s. 331.304, F.S.;
- The unemployment rate of the surrounding area; and
- The poverty rate of the community.<sup>56</sup>

The FDOT must approve a transportation project if it determines that it will:

- Attract new employment opportunities to the state or expand or retain employment in existing companies operating within the state.
- Allow for the construction or expansion of a state or federal correctional facility in a county having a population of 75,000 or fewer which creates new employment opportunities or expands or retains employment in the county.<sup>57</sup>

Current law requires inclusion of specific clauses in a contract between the FDOT and a governmental body for economic development transportation projects.<sup>58</sup> Each governmental body receiving funds must submit to the FDOT a financial audit conducted by an independent certified public accountant. The FDOT must monitor the construction or building site for each transportation project.

### *Effect of Proposed Changes*

The bill creates subsection (10) of s. 332.007, F.S. Subject to the availability of appropriated funds, and unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations act, the bill authorizes the FDOT to fund at a publicly owned, publicly operated airport located in a rural community<sup>59</sup> as defined in s. 288.0656, F.S.:

- The capital cost of runway and taxiway projects that add capacity, prioritized based on the amount of available nonstate matching funds; and
- Economic development transportation projects pursuant to s. 339.2821, F.S.

Any remaining funds must be allocated for development projects per s. 332.007(6), F.S., discussed above. The bill makes no such appropriation.

## **FDOT Airport Site Approval Rules/Air Traffic Pattern Separation Procedures (Section 6)**

### *Present Situation*

The FDOT is responsible for administering and enforcing the provisions of Chapter 330, F.S., relating to the regulation of aircraft, pilots, and airports, including, but not limited to, establishing requirements for airport site approval, licensure, and registration.<sup>60</sup> Aside from exemptions granted in current law,<sup>61</sup> the owner or lessee of any proposed airport must obtain the

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<sup>55</sup> Florida's Enterprise Zone Program provides state and local incentives to induce private investment in specific geographic areas targeted for economic revitalization. To qualify, these areas must meet specified criteria, including suffering from pervasive poverty, unemployment, and general distress. *See* the Florida Enterprise Zone Act, ss. 290.001-290.016, F.S.

<sup>56</sup> Section 339.2821(2), F.S.

<sup>57</sup> Section 339.2821(3)(a), F.S.

<sup>58</sup> Section 339.2821(4), F.S.

<sup>59</sup> *Supra* note 31.

<sup>60</sup> Section 330.30, F.S.

<sup>61</sup> Section 330.30(3), F.S.



FDOT’s approval of the airport site before site acquisition or construction or establishment of the proposed airport. The FDOT is required to grant site approval upon satisfaction that:

- The site has adequate area allocated for the airport as proposed.
- The proposed airport will conform to licensing or registration requirements and will comply with applicable local government land development regulations or zoning requirements.
- All affected airports, local governments, and property owners have been notified and any comments submitted by them have been given adequate consideration.
- Safe air-traffic patterns can be established for the proposed airport with all existing airports and approved airport sites in its vicinity.<sup>62</sup>

The FDOT, pursuant to statutory direction,<sup>63</sup> has adopted rules relating to airport site approval.<sup>64</sup> Rule 14-60.005, F.A.C., lists supporting documentation that must accompany an application for public airport site approval. With respect to air traffic patterns, an applicant must provide written confirmation, including a graphical depiction, demonstrating that safe air traffic patterns can be established for the proposed airport with all existing and approved airport sites within three miles of the proposed airport site. The applicant must provide a copy of a written memorandum of understanding or letter of agreement, signed by each respective party, regarding air traffic pattern separation procedures between the parties representing the proposed airport and any existing airport(s) or approved airport site(s) located within three miles of the proposed site.<sup>65</sup>

At least one lessee or owner of an existing airport is reportedly refusing to provide the memorandum of understanding or letter of agreement required by the FDOT’s rule, reportedly without justification, and such refusal has delayed approval of a Florida hospital’s heliport.

### *Effect of Proposed Changes*

The bill amends s. 330.29(4), F.S., the FDOT’s statutory direction to adopt rules to implement the provisions of Chapter 330, F.S. The bill requires the FDOT’s rules to include a requirement for the identified memorandum of understanding or letter of agreement regarding air traffic pattern separation procedures between the parties representing a proposed airport and any existing airport or approved airport site located within three miles of the proposed site, which must be signed by each of the respective parties. The FDOT’s rule already so provides. However, the bill provides that this requirement applies only if such memorandum or letter is required by the final Federal Aviation Administration airspace determination letter<sup>66</sup> or is deemed necessary by the FDOT. In the absence of the FAA requiring the memorandum or letter or of the FDOT’s determination of necessity, no such document would be required.

<sup>62</sup> Section 330.30(1)(a), F.S. Emphasis added.

<sup>63</sup> Section 330.29(4), F.S.

<sup>64</sup> Rule Chapter 14-60, F.A.C.

<sup>65</sup> Rule 14-60(5)(j), F.A.C.

<sup>66</sup> According to the FAA, once an aeronautical study is completed, a determination is issued regarding the impact to air navigation, typically in one of three responses: A Determination of No Hazard (the subject construction did not exceed obstruction standards and marking/lighting is not required); a Determination of No Hazard with Conditions (the proposed construction/alteration would be acceptable contingent upon implementing mitigating measures such as the marking and lighting of a structure); and a Determination of Hazard (the proposed construction/alteration is determined to be a hazard to air navigation. *See* [oaaaa.faa.gov, FAA Determinations](https://www.faa.gov/oa/aaas/aaas_determinations) (last visited March 20, 2023).

## Promotional Items/Public Information and Education Campaigns (Section 7)

### *Present Situation*

The FDOT is currently authorized to purchase, lease, or otherwise acquire property and materials, including the purchase of promotional items, as part of public information and education campaigns for the promotion of scenic highways, traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety.<sup>67</sup>

The FDOT recently published Florida’s Electric Vehicle Infrastructure Deployment Plan,<sup>68</sup> deemed as the “framework for implementing the National Electric Vehicle Infrastructure Program (NEVI) to invest funding for EV infrastructure improvements to address charging gaps identified in the market,” which will serve “as a guide for how EV funds will be invested across the State over the five-year timeline of the NEVI program.” Florida reportedly will receive approximately \$198 million in NEVI formula funds through the federal 2026 fiscal year to grow the state’s network of EV chargers.

The Federal Highway Administration views public engagement activities as enabling “a more inclusive, accessible, and transparent process to gain input from communities,” and NEVI funds can be used for public engagement.<sup>69</sup> The FDOT advises that public engagement activities include “briefings, meetings, venues, social media, interactive displays, kiosks, visual materials, etc.”<sup>70</sup> However, the FDOT has no state statutory authority to purchase promotional items relating to electric vehicles or electric vehicle charging stations, nor for autonomous vehicles (which may be electrically powered), or context design for each.<sup>71</sup>

### *Effect of Proposed Changes*

The bill amends s. 334.044(5), F.S., to authorize the FDOT to purchase promotional items as part of public information and education campaigns for the promotion of electric vehicle use and charging stations, autonomous vehicles, and context design for electric vehicles and autonomous vehicles.

## Employee Training, Testing, and Licensing/Commercial Driver Licenses (Section 7)

### *Present Situation*

The FDOT notes that truck drivers licensed to drive commercial motor vehicles “are the Department’s heaviest need right now. This can also extend to heavy equipment drivers such as

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<sup>67</sup> Section 334.044(5), F.S.

<sup>68</sup> See FDOT, *Florida’s Electric Vehicle Infrastructure Deployment Plan*, p. 3 of 55, available at [florida's-evidp\\_2022-07-29\\_final\\_v2.pdf \(windows.net\)](https://www.floridastate.com/transportation/Florida's-EVIDP-2022-07-29-final-v2.pdf) (last visited February 10, 2023).

<sup>69</sup> See FHWA, [National Electric Vehicle Infrastructure \(NEVI\) Formula Program Q&A \(dot.gov\)](https://www.fhwa.dot.gov/infrastructure/NEVI/NEVI-Formula-Program-Q&A) (last visited February 10, 2023).

<sup>70</sup> See the FDOT’s responses to committee staff questions, Question 2 (on file in the Senate Transportation Committee).

<sup>71</sup> According to the FDOT, context design relates to the various design needs in different communities as electric vehicle and autonomous vehicle technology continues to evolve. *Supra* note 4, Question 4.

bridge snoopers<sup>72</sup> and dump trucks, all of which also require a [commercial driver license] as a condition of employment.<sup>73</sup>

The 2022 General Appropriations Act contained proviso authorizing the FDOT to expend \$500,000 for training, testing, and licensing for full-time employees of the FDOT who are required to have a valid Class A or Class B commercial driver license as a condition of employment with the FDOT.<sup>74</sup>

### *Effect of Proposed Changes*

The bill creates s. 334.044(36), F.S., authorizing the FDOT, within its discretion, to expend funds for training, testing, and licensing for full-time employees of the FDOT who are required to have a valid Class A or Class B commercial driver license as a condition of employment with the FDOT.

### **Fast Response Contracting (Section 8)**

#### *Present Situation*

Generally, the FDOT is authorized to enter into contracts for the construction and maintenance of all roads designated as part of the State Highway System, the State Park Road System, or of any roads placed under its supervision by law. This authorization includes construction and maintenance contracts for rest areas, weigh stations, and other structures, including roads, parking areas, supporting facilities and associated buildings used in connection with such facilities. With certain exceptions, these contracts must be advertised for competitive bidding, and such contracts generally must be awarded to the lowest responsible bidder.<sup>75</sup>

One of the exceptions to the competitive bidding requirement currently authorizes the FDOT, under certain conditions, to enter into construction and maintenance contracts, up to the amount of \$250,000, without advertising and receiving competitive bids. The FDOT may exercise this authority when the FDOT determines that doing so is in the best interest of the public for reasons of public concern, economy, improved operations, or safety, and only when circumstances dictate rapid completion of the work:

- To ensure timely completion of projects or avoidance of undue delay for other projects;
- To accomplish minor repairs or construction and maintenance activities for which time is of the essence and for which significant cost savings would occur; or
- To accomplish nonemergency work necessary to ensure avoidance of adverse conditions that affect the safe and efficient flow of traffic.<sup>76</sup>

The FDOT is required to make a good faith effort to obtain two or more quotes, if available, from qualified contractors before entering into any contract and give consideration to

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<sup>72</sup> Bridge snoopers are designed for under-bridge access inspections and bridge maintenance work. See [paxton-mitchell.com](http://paxton-mitchell.com), *The Original Snoopers Underbridge Inspection Truck*, for a picture of a snoopers, available at [Bridge Inspection Equipment | \(paxton-mitchell.com\)](http://paxton-mitchell.com) (last visited February 10, 2023).

<sup>73</sup> *Supra* note 4, Question 1 (on file in the Senate Transportation Committee).

<sup>74</sup> Ch. 2022-156, L.O.F., p. 319 of 518, available at [156 \(flrules.org\)](http://156.flrules.org) (last visited February 10, 2023).

<sup>75</sup> Section 337.11, F.S.

<sup>76</sup> Section 337.11(6)(c), F.S.

disadvantaged business enterprise participation. If, however, the work exists within the limits of an existing contract, the FDOT must make a good faith effort to negotiate and enter into a contract with the prime contractor on the existing contract. These contracts fund projects such as sinkhole repairs that protect roadways and other infrastructure, traffic railing and guardrail repairs needed to protect the safety of the traveling public, and drainage and inlet work that prevents roadway flooding during heavy rain.

When first enacted in 1999, the dollar amount was capped at \$60,000.<sup>77</sup> The Legislature increased that amount to \$120,000 in 2002.<sup>78</sup> In 2017, the cap was increased to \$250,000 at the request of the FDOT, citing increased construction costs due to inflation.<sup>79</sup>

### ***Effect of Proposed Changes***

The bill amends s. 337.11(6)(c), F.S., to increase the threshold amount on fast response contracting from \$250,000 to \$500,000. The FDOT advises that increasing the cap to \$500,000 “will account for increased construction costs and extend the Department’s ability to quickly respond to construction and maintenance needs that are in the best interest of safety and the economy.”<sup>80</sup>

### **Work Program Amendment Approval (Section 9)**

#### ***Present Situation***

Current law authorizes the FDOT to amend its adopted work program and provides procedures for such amendments.<sup>81</sup> Any work program amendment that adds a new project, or phase thereof, to the adopted work program in excess of \$3 million is subject to approval by the Legislative Budget Commission (LBC). The submission must be accompanied by specified supplemental information.<sup>82</sup>

If the FDOT submits such an amendment to the LBC and the LBC does not meet or consider the amendment within 30 days after its submittal, the chair and vice chair of the LBC may authorize the amendment.<sup>83</sup>

This provision first appeared in law in 2016, with no expiration date. In 2020, the Legislature added an expiration date of July 1, 2021.<sup>84</sup> The Legislature extended the expiration date by one year in 2021,<sup>85</sup> and did the same in 2022.<sup>86</sup> The authorization for LBC approval of the specified work program amendment is currently set to expire on July 1, 2023.

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<sup>77</sup> Ch. 99-385, L.O.F.

<sup>78</sup> Ch. 2002-20, L.O.F.

<sup>79</sup> See the FDOT’s 2017 Legislative Proposal, *Rapid Response Contracts-Price Cap Increase* (on file in the Senate Transportation Committee), and Ch. 2017-42, L.O.F.

<sup>80</sup> See Florida Department of Transportation, *2023 Legislative Proposals*, Number 2 (on file in the Senate Transportation Committee).

<sup>81</sup> Section 339.175(7), F.S.

<sup>82</sup> Section 339.135(7)(h)1., F.S..

<sup>83</sup> Section 339.135(7)(h)2., F.S.

<sup>84</sup> Ch. 2020-114, s. 93, L.O.F.

<sup>85</sup> Ch. 2021-37, ss. 54 and 96, L.O.F.

<sup>86</sup> Ch. 2022-157, s. 75, L.O.F.

### *Effect of Proposed Changes*

The amends s. 339.135(7)(h)2., F.S., to remove the expiration date for the current authorization of the LBC to approve the specified amendments under the conditions specified. The authorization would remain in place unless subsequently revised or repealed.

### **Public Transportation Development Plan Consistency (Section 10)**

#### *Present Situation*

The federal Surface Transportation Block Grant Program apportions funding for each state<sup>87</sup> that may be used by states and localities for projects to preserve and improve the conditions and performance on any Federal-aid highway, bridge, and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects,<sup>88</sup> including intercity bus terminals.<sup>89</sup> The FDOT and local governmental entities are authorized to receive federal grants or apportionments for public transit<sup>90</sup> and intercity bus service projects<sup>91</sup> in this state.<sup>92</sup>

Section 341.052, F.S., establishes a public transit block grant program which is administered by the FDOT. Block grant funds may only be provided to “Section 9” providers<sup>93</sup> and “Section 18” providers,<sup>94</sup> as specified. Eligible providers must establish public transportation development plans consistent, to the maximum extent feasible, with approved local government

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<sup>87</sup> See the Surface Transportation Block Grant Fact Sheet available at [Bipartisan Infrastructure Law - Surface Transportation Block Grant \(STBG\) Fact Sheet | Federal Highway Administration \(dot.gov\)](#) (last visited February 13, 2023).

<sup>88</sup> Florida law defines “public transit capital project” as a project undertaken by a public agency to provide public transit to its constituency, and is limited to acquisition, design, construction, reconstruction, or improvement of a governmentally owned or operated transit system.” Section 341.031(7), F.S.

<sup>89</sup> See FHWA, [STBG - Federal-aid Programs - Federal-aid Programs and Special Funding - Federal Highway Administration \(dot.gov\)](#) (last visited February 13, 2023).

<sup>90</sup> “Public transit” means the transporting of people by conveyances, or systems of conveyances, traveling on land or water, local or regional in nature, and available for use by the public. Public transit systems may be either governmentally owned or privately owned. Section 341.013(6), F.S.

<sup>91</sup> “Intercity bus service” means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; has the capacity for transporting baggage carried by passengers; makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available; maintains scheduled information in the National Official Bus Guide; and provides package express service incidental to passenger transportation. Section 341.031(11), F.S.

<sup>92</sup> Section 341.051(1), F.S.

<sup>93</sup> This is historical federal terminology. A “Section 9” provider is now referred to as a Section 5307 provider, one eligible to receive funds from the Urbanized Area Formula Grants program under 49 U.S.C. 5307. The program makes federal resources available to urbanized areas (50,000 population or more) and to governors for transit capital and operating assistance in urbanized areas and for transportation-related planning. Designated recipients that are public bodies with the legal authority to receive and dispense federal funds are eligible. For a long list of eligible activities, see Federal Transit Administration, [Urbanized Area Formula Grants - 5307 | FTA \(dot.gov\)](#) (last visited February 13, 2023).

<sup>94</sup> Again, this is historical federal terminology. A “Section 18” provider is now referred to as a Section 5311 provider, one eligible to receive funds from the Formula Grants for Rural Areas under 49 U.S.C. 5311. The grants provide capital, planning, and operating assistance to states to support public transportation in rural areas with populations of less than 50,000, where many residents often rely on public transit to reach their destinations. The program also provides funding for state and national training and technical assistance through the Rural Transportation Assistance Program. Eligible recipients include states and federally recognized Indian Tribes. Subrecipients may include state or local government authorities, nonprofit organizations, and operators of public transportation or intercity bus service. Eligible activities include planning, capital, operating, job access and reverse commute projects, and the acquisition of public transportation services. See Federal Transit Administration, [Formula Grants for Rural Areas - 5311 | FTA \(dot.gov\)](#) (last visited February 13, 2023).

comprehensive plans of the units of local government in which the provider is located.<sup>95</sup> Section 341.051(4)(b), F.S., provides that expenditures for public transit and intercity bus service programs are subject to approval by the FDOT as being consistent with the Florida Transportation Plan and regional transportation goals and objectives.

The FDOT already requires that transportation development plans be consistent with the Florida Transportation Plan, local government comprehensive plans, and the local metropolitan planning organization's long-range transportation plan.<sup>96</sup>

### *Effect of Proposed Changes*

The bill amends s. 341.052(1), F.S., to statutorily require provider transportation development plans to also be consistent, to the maximum extent feasible, with the long-range transportation plans of the metropolitan planning organization in which the provider is located.

## **Public Transit Provider Productivity and Performance Measures (Section 11)**

### *Present Situation*

Section 341.071(2), F.S., requires each public transit provider to establish productivity and performance measures and, by January 31 of each year, to report to the FDOT relative to these measures. The report must specifically address potential enhancements to productivity and performance which would have the effect of increasing farebox recovery. Each provider must publish in the local newspaper of its area the productivity and performance measures established for the year and a report which provides quantitative data relative to the attainment of established productivity and performance measures.

### *Effect of Proposed Changes*

The bill amends s. 341.071(2), F.S., to remove from the annual report requiring providers to specifically addressing potential enhancements to productivity and performance measures having the effect of increasing farebox recovery. The bill would require the report to include the farebox recovery.

According to the FDOT, “This language is targeted to positive changes in ridership behavior following the pandemic. Localities across Florida have moved to a ‘free fare’ ridership model which has actually increased their ridership levels – the exact concept targeted with reporting their productivity and performance measures. Updating this language allows the localities to better tailor[] their reporting to reflect current state.”<sup>97</sup>

The bill amends s. 341.071(3), F.S., to authorize public transit providers to publish on its website (or on the city/county websites if those agencies are the managing agency for reporting

<sup>95</sup> Section 341.052(1), F.S.

<sup>96</sup> The FDOT's *TDP Handbook, FDOT Guidance for Preparing & Reviewing Transit Development Plans*, Version III, 2022 Update, p. 107 of 178, available at [2022-transit-development-plan-handbook.pdf \(windows.net\)](https://www.floridadot.com/2022-transit-development-plan-handbook.pdf), provides that “At a minimum, TDPs must be consistent with the Florida Transportation Plan, local government comprehensive plans, and the local MPO's LRTP.” Emphasis added. (Last visited February 13, 2023).

<sup>97</sup> See the FDOT's responses to committee staff questions, Question 6 (on file in the Senate Transportation Committee).

requirements, according to the FDOT<sup>98</sup>) the productivity and performance measures established for the year, as well as the required report providing quantitative data relative to the attainment of those established measures.

### **Santa Rosa Bay Bridge Authority and Bridge System (Sections 12 and 13)**

The Santa Rosa Bay Bridge Authority (SRBBA) was created in 1984 under part IV of ch. 348, F.S., with the right to acquire, hold, construct, improve, maintain, operate, own, and lease all or any part of the Santa Rosa Bay Bridge System, including the Garcon Point Bridge and related infrastructure. Toll revenues fell short of projections, and payment of debt service on the bonds issued to construct the system went into default. A planned 2014 toll increase was never implemented, the SRBBA board ceased to function, and the bondholders then demanded that the FDOT increase the toll in amounts recommended by their consultant. The FDOT disputed its legal obligation to increase the tolls, litigation ensued, and subsequent Legislative efforts to resolve the matter were unsuccessful.

The on-going litigation between UMB Bank (for the bondholders) and the FDOT has been settled. The settlement called for the FDOT to pay \$134 million lump sum to UMB on June 17, 2022 (two days after toll reductions were announced) and, by July 29, 2022, to pay any previously unremitted tolls or revenues collected for use of the bridge through the lump sum payment date. According to the FDOT, the underlying bonds were paid in full on June 30, 2022, which effectuated transfer of title to the bridge system to the FDOT.<sup>99</sup> Given the recent settlement, part IV of Ch. 348, F.S., appears to be a candidate for repeal.

### ***Effect of Proposed Changes***

The bill repeals part IV of Ch. 348, F.S.,<sup>100</sup> relating to the creation and operation of the SRBBA. The SRBBA is abolished. The bill creates an undesignated section of law, effective upon the act becoming law, transferring governance and control of the SRBBA, as well as any remaining assets, facilities, tangible and intangible property, and any rights in such property, and other legal rights of the authority, to the FDOT. The FDOT succeeds to all powers of the authority.

The bill authorizes the FDOT to review other contracts, financial obligations, and contractual obligations and liabilities of the authority, and to assume legal liability for such obligations the FDOT determines to be necessary for continued operation of the bridge system.

The bill also authorizes the FDOT to transfer the bridge system, or any portion thereof, to become part of the turnpike system under the Florida Turnpike Enterprise Law.<sup>101</sup>

### **Effective Date (Section 14)**

Except as otherwise provided, the bill takes effect July 1, 2023.

<sup>98</sup> See the FDOT's document, "Florida Department of Transportation 2023 Legislative Proposals" (on file in the Senate Transportation Committee.)

<sup>99</sup> See FDOT email to committee staff, February 7, 2023 (on file in the Senate Transportation Committee).

<sup>100</sup> Consisting of ss. 348.965, 348.966, 348.967, 348.968, 348.969, 348.97, 348.971, 348.972, 348.973, 348.974, 348.9751, 348.9761, 348.9771, and 348.9781, F.S.

<sup>101</sup> Sections 338.22-338.241, F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The authorization for the use of proceeds from Florida Development Finance Corporation private activity bonds to finance the acquisition or construction of a transportation facility under a public-private partnership presents an indeterminate fiscal impact, as it is unknown how many public-private partnerships the FDOT will enter into or the amount of such bonds that would be issued for each such partnership.

The authorization for installation of automated license plate recognition systems within the rights-of-way of the State Highway System in accordance with FDOT placement and installation guidelines may result in expenses for the FDOT and for any law enforcement agency that requests such installation in indeterminate but likely insignificant amounts.

The FDOT may incur indeterminate expenses associated with revising its rule relating to airport site approval, which expenses are expected to be absorbed within existing resources.



The authorization to produce promotional items for the promotion of electric vehicles and autonomous vehicles, and context design for each, is likely to produce an insignificant negative impact that would be absorbed within existing resources, but may be covered by NEVI funds.

The authorization for the FDOT to expend funds within its discretion for training, testing, and licensing for full-time employees of the FDOT is indeterminate but expected to be absorbed within existing resources.

The fiscal impact of the increased fast-response contracting cap is indeterminate, as it is unknown how many such contracts the FDOT will enter into or the cost of such contracts, but such contracting is capped at \$500,000 and is expected to be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 287.057, 288.9606, 311.101, 316.0777, 332.007, 330.29, 334.044, 337.11, 339.135, 341.052, and 341.071.

This bill repeals the following sections of the Florida Statutes: 348.965, 348.966, 348.967, 348.968, 348.969, 348.97, 348.971, 348.972, 348.973, 348.974, 348.9751, 348.9761, 348.9771, and 348.9781.

The bill creates an undesignated section of Florida law.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The committee substitute:

- Authorizes installation, as specified, of automated license plate recognition systems within the rights-of-way of the State Highway System at the discretion of the FDOT when installed at the request of a law enforcement agency for the purpose of collecting active criminal intelligence or investigative information.
- Authorizes the FDOT to fund up to 100 percent of project costs for eligible intermodal logistics center projects in rural areas of opportunity.
- Authorizes the FDOT, subject to availability of appropriate funds, and unless otherwise provided in the General Appropriations Act or the Implementing bill, to

fund certain projects at a publicly owned, publicly operated airport located in a rural community which does not have any scheduled commercial service.

- Requires the FDOT's rules governing public airport site approval to include a requirement that an applicant provide a copy of a written memorandum of understanding or letter of agreement regarding air traffic pattern separation procedures between the parties representing a proposed airport and any existing airport or any approved airport site located within three miles of the proposed site, signed by each of the respective parties, but only if required by a final Federal Aviation Administration airspace determination letter or deemed necessary by the FDOT .

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2023	.	
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The Committee on Transportation (DiCeglie) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 140 and 141

insert:

Section 1. Subsection (6) of section 311.101, Florida Statutes, is amended to read:

311.101 Intermodal Logistics Center Infrastructure Support Program.—

(6) The department shall provide up to 50 percent of project costs for eligible projects. For eligible projects in



11 rural areas of opportunity designated in accordance with s.  
12 288.0656(7) (a), the department may provide up to 100 percent of  
13 project costs.

14 Section 2. Section 316.0777, Florida Statutes, is amended  
15 to read:

16 316.0777 Automated license plate recognition systems;  
17 installation within the rights-of-way of the State Highway  
18 System; public records exemption.—

19 (1) As used in this section, the term:

20 (a) "Active," "criminal intelligence information," and  
21 "criminal investigative information" have the same meanings as  
22 provided in s. 119.011(3).

23 (b) "Agency" has the same meaning as provided in s.  
24 119.011.

25 (c) "Automated license plate recognition system" means a  
26 system of one or more mobile or fixed high-speed cameras  
27 combined with computer algorithms to convert images of license  
28 plates into computer-readable data.

29 (d) "Criminal justice agency" has the same meaning as  
30 provided in s. 119.011.

31 (2) (a) For purposes of this subsection, the term "law  
32 enforcement agency" means an agency that has a primary mission  
33 of preventing and detecting crime and enforcing state penal,  
34 criminal, traffic, and motor vehicle laws and in furtherance of  
35 that mission employs law enforcement officers as defined in s.  
36 943.10(1).

37 (b) At the discretion of the Department of Transportation,  
38 an automated license plate recognition system may be installed  
39 within the rights-of-way, as defined in s. 334.03(21), of any



161020

40 road on the State Highway System when installed at the request  
41 of a law enforcement agency for the purpose of collecting active  
42 criminal intelligence information or active criminal  
43 investigative information as those terms are described in s.  
44 119.011(3). Such installations must be in accordance with  
45 placement and installation guidelines developed by the  
46 Department of Transportation. An automated license plate  
47 recognition system must be removed within 30 days after the  
48 Department of Transportation notifies the requesting law  
49 enforcement agency that such removal must occur.

50 (c) Installation and removal of an automated license plate  
51 recognition system is at the sole expense of the requesting law  
52 enforcement agency. The Department of Transportation is not  
53 liable for any damages caused to any person by the requesting  
54 law enforcement agency's operation of such a system.

55 (d) Records containing images and data generated through  
56 use of an automated license plate recognition system may not be  
57 retained longer than the maximum period provided in the  
58 retention schedule established pursuant to s. 316.0778.

59 (3)~~(2)~~ The following information held by an agency is  
60 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
61 of the State Constitution:

62 (a) Images and data containing or providing personal  
63 identifying information obtained through the use of an automated  
64 license plate recognition system.

65 (b) Personal identifying information of an individual in  
66 data generated or resulting from images obtained through the use  
67 of an automated license plate recognition system.

68 (4)~~(3)~~ Such information may be disclosed as follows:



161020

69 (a) Any such information may be disclosed by or to a  
70 criminal justice agency in the performance of the criminal  
71 justice agency's official duties.

72 (b) Any such information relating to a license plate  
73 registered to an individual may be disclosed to the individual,  
74 unless such information constitutes active criminal intelligence  
75 information or active criminal investigative information.

76 (5)~~(4)~~ This exemption applies to such information held by  
77 an agency before, on, or after the effective date of this  
78 exemption.

79 Section 3. Subsection (10) is added to section 332.007,  
80 Florida Statutes, to read:

81 332.007 Administration and financing of aviation and  
82 airport programs and projects; state plan.-

83 (10) Subject to the availability of appropriated funds, and  
84 unless otherwise provided in the General Appropriations Act or  
85 the substantive bill implementing the General Appropriations  
86 Act, the department may fund all of the following at a publicly  
87 owned, publicly operated airport located in a rural community as  
88 defined in s. 288.0656 which does not have any scheduled  
89 commercial service:

90 (a) The capital cost of runway and taxiway projects that  
91 add capacity. Such projects must be prioritized based on the  
92 amount of available nonstate matching funds.

93 (b) Economic development transportation projects pursuant  
94 to s. 339.2821.

95  
96 Any remaining funds must be allocated for projects specified in  
97 subsection (6).



98 Section 4. Subsection (4) of section 330.29, Florida  
99 Statutes, is amended to read:

100 330.29 Administration and enforcement; rules; requirements  
101 for airport sites and airports.—It is the duty of the department  
102 to:

103 (4) Adopt rules pursuant to ss. 120.536(1) and 120.54 to  
104 implement the provisions of this chapter. The department rules  
105 governing public airport site approval must include a  
106 requirement that an applicant provide a copy of a written  
107 memorandum of understanding or letter of agreement regarding air  
108 traffic pattern separation procedures between the parties  
109 representing a proposed airport and any existing airport or any  
110 approved airport site located within 3 miles of the proposed  
111 site, which must be signed by each of the respective parties.  
112 The requirement applies only if such memorandum or letter is  
113 required by the final Federal Aviation Administration airspace  
114 determination letter or is deemed necessary by the department.

115  
116 ===== T I T L E A M E N D M E N T =====

117 And the title is amended as follows:

118 Between lines 11 and 12  
119 insert:

120 311.101, F.S.; authorizing the department to provide  
121 up to 100 percent of project costs for certain  
122 eligible projects in rural areas of opportunity;  
123 amending s. 316.0777, F.S.; defining the term "law  
124 enforcement agency"; authorizing installation of an  
125 automated license plate recognition system within the  
126 right-of-way of any road on the State Highway System



161020

127 for a specified purpose; providing that such  
128 installations are solely within the department's  
129 discretion and must be in accordance with placement  
130 and installation guidelines developed by the  
131 department; requiring removal of such a system within  
132 a specified timeframe at the expense of the requesting  
133 law enforcement agency upon notification by the  
134 department; providing that the department is not  
135 liable for any damages resulting from the requesting  
136 law enforcement agency's operation of such a system;  
137 providing for a maximum period of retention of certain  
138 records generated through the use of an automated  
139 license plate recognition system; amending s. 332.007,  
140 F.S.; authorizing the department, subject to the  
141 availability of appropriated funds, to fund certain  
142 projects at specified publicly owned, publicly  
143 operated airports with no scheduled commercial  
144 service; providing prioritization criteria; providing  
145 for allocation of any remaining funds; amending s.  
146 330.29, F.S.; requiring that department rules  
147 governing public airport site approval include a  
148 specified requirement relating to a memorandum of  
149 understanding or letter of agreement regarding air  
150 traffic pattern separation procedures between  
151 specified parties; providing applicability; amending  
152 s.



By Senator DiCeglie

18-01656A-23

20231250\_\_

1 A bill to be entitled  
 2 An act relating to the Department of Transportation;  
 3 amending s. 287.057, F.S.; revising the contractual  
 4 services and commodities that are not subject to  
 5 specified competitive-solicitation requirements;  
 6 amending s. 288.9606, F.S.; providing construction  
 7 regarding the proceeds of bonds of the Florida  
 8 Development Finance Corporation; revising purposes for  
 9 which the corporation may, without certain  
 10 authorization from a public agency, issue revenue  
 11 bonds or other evidence of indebtedness; amending s.  
 12 334.044, F.S.; revising the department's powers and  
 13 duties; amending s. 337.11, F.S.; increasing the  
 14 maximum cost of contracts for construction and  
 15 maintenance the department may enter into without  
 16 advertising and receiving competitive bids; amending  
 17 s. 339.135, F.S.; abrogating the expiration of  
 18 provisions authorizing the approval of certain work  
 19 program amendments submitted by the department;  
 20 amending s. 341.052, F.S.; requiring that public  
 21 transportation development plans of eligible providers  
 22 of public transit block grants be consistent with the  
 23 long-range transportation plans of the metropolitan  
 24 planning area in which the providers are located;  
 25 amending s. 341.071, F.S.; revising requirements of  
 26 annual public transit provider reports; requiring each  
 27 public transit provider to publish on its website,  
 28 rather than in the local newspaper, certain  
 29 performance measures; repealing part IV of ch. 348,

Page 1 of 11

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

18-01656A-23

20231250\_\_

30 F.S., relating to the Santa Rosa Bay Bridge Authority;  
 31 transferring the governance and control of the Santa  
 32 Rosa Bay Bridge Authority to the department;  
 33 transferring the remaining assets, facilities,  
 34 property, and property rights of the authority to the  
 35 department; providing that the department succeeds to  
 36 all powers of the authority; authorizing the  
 37 department to review other contracts, financial  
 38 obligations, and contractual obligations and  
 39 liabilities of the authority and to assume legal  
 40 liability for such obligations determined by the  
 41 department to be necessary for the continued operation  
 42 of the bridge system; authorizing the department to  
 43 transfer the bridge system, or any portion thereof, to  
 44 become part of the turnpike system; providing  
 45 effective dates.  
 46  
 47 Be It Enacted by the Legislature of the State of Florida:  
 48  
 49 Section 1. Paragraph (e) of subsection (3) of section  
 50 287.057, Florida Statutes, is amended to read:  
 51 287.057 Procurement of commodities or contractual  
 52 services.—  
 53 (3) If the purchase price of commodities or contractual  
 54 services exceeds the threshold amount provided in s. 287.017 for  
 55 CATEGORY TWO, purchase of commodities or contractual services  
 56 may not be made without receiving competitive sealed bids,  
 57 competitive sealed proposals, or competitive sealed replies  
 58 unless:

Page 2 of 11

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

18-01656A-23

20231250\_\_

59 (e) The following contractual services and commodities are  
60 not subject to the competitive-solicitation requirements of this  
61 section:

62 1. Artistic services. As used in this subsection, the term  
63 "artistic services" does not include advertising or typesetting.  
64 As used in this subparagraph, the term "advertising" means the  
65 making of a representation in any form in connection with a  
66 trade, business, craft, or profession in order to promote the  
67 supply of commodities or services by the person promoting the  
68 commodities or contractual services.

69 2. Academic program reviews if the fee for such services  
70 does not exceed \$50,000.

71 3. Lectures by individuals.

72 4. Legal services, including attorney, paralegal, expert  
73 witness, appraisal, or mediator services.

74 5. Health services involving examination, diagnosis,  
75 treatment, prevention, medical consultation, or administration.  
76 The term also includes, but is not limited to, substance abuse  
77 and mental health services involving examination, diagnosis,  
78 treatment, prevention, or medical consultation if such services  
79 are offered to eligible individuals participating in a specific  
80 program that qualifies multiple providers and uses a standard  
81 payment methodology. Reimbursement of administrative costs for  
82 providers of services purchased in this manner are also exempt.  
83 For purposes of this subparagraph, the term "providers" means  
84 health professionals and health facilities, or organizations  
85 that deliver or arrange for the delivery of health services.

86 6. Services provided to persons with mental or physical  
87 disabilities by not-for-profit corporations that have obtained

18-01656A-23

20231250\_\_

88 exemptions under s. 501(c)(3) of the United States Internal  
89 Revenue Code or when such services are governed by Office of  
90 Management and Budget Circular A-122. However, in acquiring such  
91 services, the agency shall consider the ability of the vendor,  
92 past performance, willingness to meet time requirements, and  
93 price.

94 7. Medicaid services delivered to an eligible Medicaid  
95 recipient unless the agency is directed otherwise in law.

96 8. Family placement services.

97 9. Prevention services related to mental health, including  
98 drug abuse prevention programs, child abuse prevention programs,  
99 and shelters for runaways, operated by not-for-profit  
100 corporations. However, in acquiring such services, the agency  
101 shall consider the ability of the vendor, past performance,  
102 willingness to meet time requirements, and price.

103 10. Training and education services provided to injured  
104 employees pursuant to s. 440.491(6).

105 11. Contracts entered into pursuant to s. 337.11.

106 12. Services or commodities provided by governmental  
107 entities.

108 13. Statewide public service announcement programs provided  
109 by a Florida statewide nonprofit corporation under s. 501(c)(6)  
110 of the Internal Revenue Code which have a guaranteed documented  
111 match of at least \$3 to \$1.

112 14. Rating agency services.

113 Section 2. Subsections (6) and (7) of section 288.9606,  
114 Florida Statutes, are amended to read:

115 288.9606 Issue of revenue bonds.—

116 (6) The proceeds of any bonds of the corporation may not be

18-01656A-23

20231250\_\_

117 used, in any manner, to acquire any building or facility that  
 118 will be, during the pendency of the financing, used by, occupied  
 119 by, leased to, or paid for by any state, county, or municipal  
 120 agency or entity. This subsection does not prohibit the use of  
 121 proceeds of bonds of the corporation for the purpose of  
 122 financing the acquisition or construction of a transportation  
 123 facility under a public-private partnership agreement authorized  
 124 under s. 334.30.

125 (7) Notwithstanding any provision of this section, the  
 126 corporation in its corporate capacity may, without authorization  
 127 from a public agency under s. 163.01(7), issue revenue bonds or  
 128 other evidence of indebtedness under this section to:

129 (a) Finance the undertaking of any project within the state  
 130 that promotes renewable energy as defined in s. 366.91 or s.  
 131 377.803;

132 (b) Finance the undertaking of any project within the state  
 133 that is a project contemplated or allowed under s. 406 of the  
 134 American Recovery and Reinvestment Act of 2009; ~~or~~

135 (c) If permitted by federal law, finance qualifying  
 136 improvement projects within the state under s. 163.08; or

137 (d) Finance the costs of acquisition or construction of a  
 138 transportation facility by a private entity or consortium of  
 139 private entities under a public-private partnership agreement  
 140 authorized under s. 334.30.

141 Section 3. Subsection (5) of section 334.044, Florida  
 142 Statutes, is amended, and subsection (36) is added to that  
 143 section, to read:

144 334.044 Powers and duties of the department.—The department  
 145 shall have the following general powers and duties:

Page 5 of 11

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

18-01656A-23

20231250\_\_

146 (5) To purchase, lease, or otherwise acquire property and  
 147 materials, including the purchase of promotional items as part  
 148 of public information and education campaigns for the promotion  
 149 of scenic highways, traffic and train safety awareness,  
 150 alternatives to single-occupant vehicle travel, ~~and~~ commercial  
 151 motor vehicle safety, electric vehicle use and charging  
 152 stations, autonomous vehicles, and context design for electric  
 153 vehicles and autonomous vehicles; to purchase, lease, or  
 154 otherwise acquire equipment and supplies; and to sell, exchange,  
 155 or otherwise dispose of any property that is no longer needed by  
 156 the department.

157 (36) To expend funds, within the department's discretion,  
 158 for training, testing, and licensing for full-time employees of  
 159 the department who are required to have a valid Class A or Class  
 160 B commercial driver license as a condition of employment with  
 161 the department.

162 Section 4. Paragraph (c) of subsection (6) of section  
 163 337.11, Florida Statutes, is amended to read:

164 337.11 Contracting authority of department; bids; emergency  
 165 repairs, supplemental agreements, and change orders; combined  
 166 design and construction contracts; progress payments; records;  
 167 requirements of vehicle registration.—

168 (6)

169 (c) When the department determines that it is in the best  
 170 interest of the public for reasons of public concern, economy,  
 171 improved operations, or safety, and only when circumstances  
 172 dictate rapid completion of the work, the department may, up to  
 173 the amount of \$500,000 ~~\$250,000~~, enter into contracts for  
 174 construction and maintenance without advertising and receiving

Page 6 of 11

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18-01656A-23 20231250\_\_

175 competitive bids. The department may enter into such contracts  
 176 only upon a determination that the work is necessary for one of  
 177 the following reasons:

178 1. To ensure timely completion of projects or avoidance of  
 179 undue delay for other projects;

180 2. To accomplish minor repairs or construction and  
 181 maintenance activities for which time is of the essence and for  
 182 which significant cost savings would occur; or

183 3. To accomplish nonemergency work necessary to ensure  
 184 avoidance of adverse conditions that affect the safe and  
 185 efficient flow of traffic.

186

187 The department shall make a good faith effort to obtain two or  
 188 more quotes, if available, from qualified contractors before  
 189 entering into any contract. The department shall give  
 190 consideration to disadvantaged business enterprise  
 191 participation. However, when the work exists within the limits  
 192 of an existing contract, the department shall make a good faith  
 193 effort to negotiate and enter into a contract with the prime  
 194 contractor on the existing contract.

195 Section 5. Paragraph (h) of subsection (7) of section  
 196 339.135, Florida Statutes, is amended to read:

197 339.135 Work program; legislative budget request;  
 198 definitions; preparation, adoption, execution, and amendment.—  
 199 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—  
 200 (h)1. Any work program amendment that also adds a new  
 201 project, or phase thereof, to the adopted work program in excess  
 202 of \$3 million is subject to approval by the Legislative Budget  
 203 Commission. Any work program amendment submitted under this

18-01656A-23 20231250\_\_

204 paragraph must include, as supplemental information, a list of  
 205 projects, or phases thereof, in the current 5-year adopted work  
 206 program which are eligible for the funds within the  
 207 appropriation category being used for the proposed amendment.  
 208 The department shall provide a narrative with the rationale for  
 209 not advancing an existing project, or phase thereof, in lieu of  
 210 the proposed amendment.

211 2. If the department submits an amendment to the  
 212 Legislative Budget Commission and the commission does not meet  
 213 or consider the amendment within 30 days after its submittal,  
 214 the chair and vice chair of the commission may authorize the  
 215 amendment to be approved pursuant to s. 216.177. ~~This~~  
 216 ~~subparagraph expires July 1, 2023.~~

217 Section 6. Subsection (1) of section 341.052, Florida  
 218 Statutes, is amended to read:

219 341.052 Public transit block grant program; administration;  
 220 eligible projects; limitation.—

221 (1) There is created a public transit block grant program  
 222 which shall be administered by the department. Block grant funds  
 223 shall only be provided to "Section 9" providers and "Section 18"  
 224 providers designated by the United States Department of  
 225 Transportation and community transportation coordinators as  
 226 defined in chapter 427. Eligible providers must establish public  
 227 transportation development plans consistent, to the maximum  
 228 extent feasible, with approved local government comprehensive  
 229 plans of the units of local government in which the provider is  
 230 located and the long-range transportation plans of the  
 231 metropolitan planning area in which the provider is located. In  
 232 developing public transportation development plans, eligible

18-01656A-23 20231250\_\_

233 providers must solicit comments from local workforce development  
 234 boards established under chapter 445. The development plans must  
 235 address how the public transit provider will work with the  
 236 appropriate local workforce development board to provide  
 237 services to participants in the welfare transition program.  
 238 Eligible providers must provide information to the local  
 239 workforce development board serving the county in which the  
 240 provider is located regarding the availability of transportation  
 241 services to assist program participants.

242 Section 7. Subsections (2) and (3) of section 341.071,  
 243 Florida Statutes, are amended to read:

244 341.071 Transit productivity and performance measures;  
 245 reports.—

246 (2) Each public transit provider shall establish  
 247 productivity and performance measures, which must be approved by  
 248 the department and which must be selected from measures  
 249 developed pursuant to s. 341.041(3). Each provider shall, by  
 250 January 31 of each year, report to the department relative to  
 251 these measures. In approving these measures, the department  
 252 shall give consideration to the goals and objectives of each  
 253 system, the needs of the local area, and the role for public  
 254 transit in the local area. The report must include the ~~shall~~  
 255 ~~also specifically address potential enhancements to productivity~~  
 256 ~~and performance which would have the effect of increasing~~  
 257 farebox recovery ratio.

258 (3) Each public transit provider shall publish on its  
 259 ~~website in the local newspaper of its area~~ the productivity and  
 260 performance measures established for the year and a report that  
 261 ~~which~~ provides quantitative data relative to the attainment of

18-01656A-23 20231250\_\_

262 established productivity and performance measures.

263 Section 8. Effective upon this act becoming a law, part IV  
 264 of chapter 348, Florida Statutes, consisting of sections  
 265 348.965, 348.966, 348.967, 348.968, 348.969, 348.97, 348.971,  
 266 348.972, 348.973, 348.974, 348.9751, 348.9761, 348.9771, and  
 267 348.9781, Florida Statutes, is repealed.

268 Section 9. Effective upon this act becoming a law, the  
 269 governance and control of the Santa Rosa Bay Bridge Authority is  
 270 transferred to the Department of Transportation.

271 (1) Since the Santa Rosa Bay Bridge Authority's bridge  
 272 system was transferred to the department under the terms of the  
 273 lease-purchase agreement and a settlement agreement between the  
 274 department and the authority which was effective as of the close  
 275 of business on June 30, 2022, any remaining assets, facilities,  
 276 tangible and intangible property, and any rights in such  
 277 property, and other legal rights of the authority are  
 278 transferred to the department. The department succeeds to all  
 279 powers of the authority. The department may review other  
 280 contracts, financial obligations, and contractual obligations  
 281 and liabilities of the authority and may assume legal liability  
 282 for such obligations that are determined by the department to be  
 283 necessary for the continued operation of the bridge system.

284 (2) The bridge system, or any portion thereof, may be  
 285 transferred by the department and become part of the turnpike  
 286 system under the Florida Turnpike Enterprise Law, ss. 338.22-  
 287 338.241, Florida Statutes.

288 Section 10. Except as otherwise expressly provided in this  
 289 act and except for this section, which shall take effect upon  
 290 this act becoming a law, this act shall take effect July 1,

291 18-01656A-23  
2023.

20231250\_\_

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/SB 1258

INTRODUCER: Transportation Committee; Senator Trumbull, and others

SUBJECT: Use of Phosphogypsum

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Fav/CS</b>
2.			EN	
3.			FP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1258 authorizes the Florida Department of Transportation (FDOT) to undertake demonstration projects using phosphogypsum from phosphate production in road construction aggregate material.

The bill authorizes the FDOT to conduct a study to evaluate the suitability of using phosphogypsum as a construction aggregate material. The FDOT may consider any prior or ongoing studies of phosphogypsum's road suitability. The study and a determination of suitability must be completed by January 1, 2024.

Upon the FDOT's determination of suitability, the bill authorizes the use of phosphogypsum from phosphate production as a construction aggregate material in accordance with the conditions of the United States Environmental Protection Agency's approval for such use.

Lastly, the bill provides that phosphogypsum placed in a phosphogypsum stack system permitted by the FDEP or used in accordance with an allowed use expressly specified in EPA regulations or pursuant to an express EPA approval for the specific use is not solid waste and is an allowable use in this state.

The FDOT is expected to incur costs associated with conducting the study required by the bill, which costs are expected to be absorbed within existing resources. See the "Fiscal Impact Statement" heading.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Phosphogypsum Stacks

The production of fertilizer from phosphoric rock is a major industry in Florida. Unfortunately, the process results in wastewater and byproducts that are difficult to manage. The process produces phosphoric acid, wastewater, and gypsum to produce a slurry that is pumped to the top of a stack of gypsum. There, it is held until it seeps below and is redistributed to cooling ponds. It is critical that this acidic water not overflow the reservoir on the top of the stack or the cooling ponds. A phosphate plant relies heavily on its system of pipes and pumps to distribute the acidic water so as to prevent overflows, particularly during heavy rains.<sup>1</sup>

According to the United States Environmental Protection Agency (EPA):

Phosphogypsum is a solid waste<sup>2</sup> byproduct that results from processing phosphate ore to make phosphoric acid that is later used in fertilizer. Because the phosphate ore contains uranium and radium, phosphogypsum also contains these radionuclides. The radium is of particular concern because it decays to form radon, a cancer-causing, radioactive gas.<sup>3</sup>

Florida Polytechnic University's Florida Industrial and Phosphate Research Institute (FIPRI) notes that there are about 1 billion tons of phosphogypsum stacked in 24 stacks<sup>4</sup> in Florida and, each year, about 30 million new tons are generated.<sup>5</sup> Stacking became necessary, according to the FIPRI, as a matter of legal necessity when the EPA banned the use of phosphogypsum in 1989. The EPA subsequently allowed the lawful removal and distribution of phosphogypsum from a stack for outdoor agricultural purposes,<sup>6</sup> for indoor research and development,<sup>7</sup> and for other purposes under certain conditions.<sup>8</sup>

Phosphogypsum may not be lawfully removed from a stack and distributed or used for any purposes not expressly specified in the provisions for outdoor agricultural use and for indoor research and development.<sup>9</sup> A request that EPA approve distribution and/or use of phosphogypsum for any other purpose must be submitted in writing containing specified

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<sup>1</sup> Failure of phosphogypsum stacks can occur for other reasons; *e.g.*, see wfla.com, [Stacks, water and waste: What the Piney Point leak means for Tampa Bay | WFLA](#) (last visited March 8, 2023).

<sup>2</sup> Under the EPA's rules, "phosphogypsum" is defined as the solid waste byproduct which results from the process of wet acid phosphorus production. 14 C.F.R. §61.20(1)(b).

<sup>3</sup> See epa.gov, [Subpart R: National Emission Standards for Radon Emissions From Phosphogypsum Stacks | US EPA](#) (last visited March 7, 2023).

<sup>4</sup> Section 403.4154(1)(d), F.S., defines "phosphogypsum stack" as any defined geographic area associated with a phosphoric acid production facility in which phosphogypsum is disposed of or stored, other than within a fully enclosed building, container, or tank.

<sup>5</sup> See fipr.floridapoly.edu, [Phosphogypsum Stacks \(floridapoly.edu\)](#) (last visited March 7, 2023).

<sup>6</sup> 40 C.F.R. §61.204.

<sup>7</sup> 40 C.F.R. §61.205.

<sup>8</sup> 40 C.F.R. §61.206.

<sup>9</sup> 40 C.F.R. §61.206(a).



information. A request may be approved by the Assistant Administrator for Air and Radiation if he or she determines that the proposed distribution and/or use is at least as protective of public health, in both the short term and the long term, as disposal of phosphogypsum in a stack or a mine.<sup>10</sup> If a request is granted, each of the following requirements must be satisfied:

- The owner or operator of the stack from which the phosphogypsum will be removed must annually determine the average radium-226 concentration at the location in the stack from which the phosphogypsum will be removed, as specified;
- All phosphogypsum distributed in commerce by the owner or operator of a phosphogypsum stack, or by a distributor, retailer, or reseller, or purchased by the end-user, shall be accompanied at all times by specified certification documents;<sup>11</sup> and
- The end-user of the phosphogypsum must maintain specified records.<sup>12</sup>

### **EPA Approval for Use in Road Construction and Subsequent Withdrawal**

On October 14, 2020, the EPA approved a request from The Fertilizer Institute (TFI) to allow phosphogypsum to be used in government road construction projects, subject to certain terms and conditions.<sup>13</sup> Effective July 7, 2021, the EPA withdrew its approval: “Upon further review, EPA has determined that the approval was premature and should be withdrawn because the request did not contain all of the required information. With this action, phosphogypsum remains prohibited from use in road construction projects.”<sup>14</sup>

TFI responded:

Importantly, the EPA withdrew the PG [phosphogypsum] road base approval based solely on procedural grounds, and its withdrawal did not contradict TFI’s robust risk assessment in support of the use of PG in road construction. In fact, the decision to withdraw the categorical approval to use PG in road construction definitively left the window open for site specific projects to be considered for EPA approval based on the same scientific merits which focus on safe, sustainable use. We concur with EPA’s scientific evaluation and conclusion that the risk associated with the use of PG in road construction is no greater than stacking the material or placing it in mines.

TFI will continue to work with the EPA and other stakeholders so that the United States can join with the numerous countries throughout South America, Asia, Europe, Africa, and Canada that permit the safe and environmentally conscious beneficial use of PG.<sup>15</sup>

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<sup>10</sup> 40 C.F.R. §61.206(c).

<sup>11</sup> Those that conform to 40 C.F.R. § 209(c).

<sup>12</sup> 40 C.F.R. §61.206(d).

<sup>13</sup> See the EPA New Release, [EPA Approves Use of Phosphogypsum in Road Construction | US EPA](#) (last visited March 13, 2023). To review the terms and conditions, see the EPA letter to The Fertilizer Institute, October 14, 2020, available at [document \(epa.gov\)](#) (lasts visited March 13, 2023). To review The Fertilizer Institute’s supporting documents, see EPA, [Request to Use Phosphogypsum in Government Road Projects: Supporting Documents | US EPA](#) (last visited March 13, 2023).

<sup>14</sup> See 86 F.R. 35795, available at [Federal Register :: Withdrawal of Approval for Use of Phosphogypsum in Road Construction](#) (last visited March 13, 2023).

<sup>15</sup> See tfi.org, [TFI Statement on EPA Phosphogypsum Decision | TFI | The Fertilizer Institute](#) (last visited March 13, 2023).

Other stakeholders are awaiting the outcome of TFI's ongoing efforts to achieve EPA approval of the use of phosphogypsum in road construction.

### **Florida Department of Environment Protection Phosphogypsum and Solid Waste Management Programs**

The Florida Department of Environmental Protection's (FDEP's) Phosphogypsum Management Program administers and implements industrial wastewater permitting, compliance, and enforcement activities for the phosphate industry and regulates the design, construction, operation, and maintenance of phosphogypsum stack systems. Ensuring the proper closure and long-term monitoring and maintenance of those systems which have shut down, or which are otherwise required by rule to be closed, is the goal of the program.<sup>16</sup>

The FDEP issues permits for construction, operation, and closure of stack systems<sup>17</sup> and permits for discharge to surface waters under the National Pollutant Discharge Elimination System, as authorized by the EPA.<sup>18</sup> The FDEP also administers financial responsibility requirements intended to guarantee that owners and operators have the financial ability to properly close and manage phosphogypsum stack systems.<sup>19</sup>

The FDEP's Solid Waste Section of the Permitting and Compliance Assistance Program is charged with responsibility for rule development, solid waste policy, financial assurance compliance, and implementing the state's solid waste management program.<sup>20</sup> FDEP district offices receive technical assistance regarding the permitting, compliance, and enforcement activities associated with solid waste facilities. Such facilities can include landfills, material recovery facilities, transfer stations, composting and processing facilities, and waste tire management sites. The district offices manage permitting, compliance, and enforcement issues associated with such sites.<sup>21</sup>

The term "solid waste" is defined in Florida law to mean sludge<sup>22</sup> unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting

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<sup>16</sup> For additional information, see [floridadep.gov](http://floridadep.gov), [Phosphate Management Program | Florida Department of Environmental Protection](#) (last visited March 13, 2023).

<sup>17</sup> See ss. 403.4154 and 403.4155, F.S.

<sup>18</sup> The NPDES is a permit program that addresses water pollution by regulating point sources that discharge pollutants to waters of the U.S., created in 1972 by the Clean Water Act. The EPA authorizes state governments to perform many permitting, administrative, and enforcement aspects of the program. For more information, see [epa.gov](http://epa.gov), [National Pollutant Discharge Elimination System \(NPDES\) | US EPA](#) (last visited March 16, 2023).

<sup>19</sup> Id.

<sup>20</sup> Section 403.705, F.S.

<sup>21</sup> See [floridadep.gov](http://floridadep.gov), [Solid Waste Section | Florida Department of Environmental Protection](#) (last visited March 16, 2023).

<sup>22</sup> "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances. Section 403.703(34), F.S.

from domestic, industrial, commercial, mining, agricultural, or government operations, excluding certain recovered materials and post-use polymers.<sup>23</sup>

The FDEP currently may not regulate the following wastes or activities:

- Byproduct material, source material, and special nuclear material, the generation, transportation, disposal, storage, or treatment of which is regulated under chapter 404 or the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923, as amended.
- Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges which are point sources subject to permits pursuant to this chapter or s. 402 of the Clean Water Act, Pub. L. No. 95-217.
- Emissions to the air from a stationary installation or source regulated under this chapter or the Clean Air Act, Pub. L. No. 95-95.
- Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under Chapter 377, F.S.
- Recovered materials, post-use polymers, recovered materials processing facilities, or pyrolysis facilities, except as provided and under specified conditions.
- Industrial byproducts, under specified conditions.

Additionally, sludge from an industrial waste treatment works that meets certain exemption requirements is not solid waste as defined in s. 403.703, F.S.

Phosphogypsum is a solid waste as defined in current law and is regulated in Florida pursuant to waste and industry-specific requirements<sup>24</sup> and the FDEP’s rules and permitting requirements.<sup>25</sup> The FDEP advises that while phosphogypsum is currently defined as a solid waste, “phosphogypsum stack systems are not regulated as solid waste management facilities, as they are separately regulated under the FDEP’s rules for siting, construction, operation, closure and long-term care of phosphogypsum stack systems in Florida.”<sup>26</sup>

### **FDOT Road Construction Material**

Generally speaking construction aggregate materials are mined resources that provide the basic material for concrete, asphalt, and road base. The FDOT’s rule defines the term “aggregate” to mean a granular construction material such as sand, limerock, limestone, gravel, shell, slag, and crushed stone; manufactured materials such as shales, slates, and clays; and recycled material such as crushed concrete used as specified, or for other construction materials and uses not yet developed, but which may have potential usage by the FDOT.<sup>27</sup>

The FDOT has implemented a standardized method for producers of construction aggregates to apply for, receive, and maintain FDOT approval of construction aggregate sources for use on

<sup>23</sup> Section 403.703(35), F.S. Emphasis added.

<sup>24</sup> See ss. 403.4154 and 403.4155, F.S.

<sup>25</sup> Chapters 62-672 and 62-673, F.A.C.

<sup>26</sup> See FDEP email to committee staff, March 16, 2023 (on file in the Senate Transportation Committee).

<sup>27</sup> Rule 14-103.003(3), F.A.C. Section 337.261, F.S., defines “construction aggregate materials” to mean crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base.

FDOT projects. The FDOT's primary methods of determining acceptability of aggregate are source and product approval, and maintenance of an on-going quality control program as monitored by the FDOT.<sup>28</sup>

Current law reflects legislative intent that the FDOT continue to expand its current use of recovered materials in its construction programs.<sup>29</sup> The Legislature declares it to be in the public interest to find alternative ways to use certain recyclable materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills.

To determine the feasibility of using certain recyclable materials for paving materials, the FDOT may undertake demonstration projects using the following materials in road construction:

- Ground rubber from automobile tires in road resurfacing or subbase materials for roads;
- Ash residue from coal combustion byproducts for concrete and ash residue from waste incineration facilities and oil combustion byproducts for subbase material;
- Recycled mixed-plastic material for guardrail posts or right-of-way fence posts;
- Construction steel, including reinforcing rods and I-beams, manufactured from scrap metals disposed of in the state; and
- Glass, and glass aggregates.<sup>30</sup>

The FDOT must review and revise existing bid procedures and specifications for the purchase or use of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of this state.<sup>31</sup>

The FDOT must also review and revise its bid procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content.<sup>32</sup>

The FDOT has participated in at least two experimental projects using phosphogypsum on secondary roads in Columbia County and in Polk County.<sup>33</sup>

### **III. Effect of Proposed Changes:**

#### **Use of Recyclable Material in Construction (Section 1)**

The bill amends s. 336.044(2), F.S., authorizing the FDOT to undertake demonstration projects using phosphogypsum from phosphate production in road construction aggregate material.

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<sup>28</sup> Rule 14-103.002(1), F.A.C.

<sup>29</sup> Section 336.044(1), F.S.

<sup>30</sup> Section 336.044(2), F.S.

<sup>31</sup> Section 336.044(3), F.S.

<sup>32</sup> Section 336.044(4), F.S.

<sup>33</sup> See [fipr.floridapoly.edu](http://fipr.floridapoly.edu), [Phosphogypsum for Secondary Road Construction \(floridapoly.edu\)](http://Phosphogypsum%20for%20Secondary%20Road%20Construction%20(fl%20oridapoly.edu)) (last visited March 16, 2023).

So long as the use of phosphogypsum is prohibited by federal law, as is currently the case, the FDOT would not be authorized to undertake any such demonstration project. Such a demonstration project could only occur in accordance with conditions or limitations specified in any EPA approval for use of phosphogypsum in such a demonstration project.

### **Study and Use of Phosphogypsum As a Construction Aggregate Material (Section 2)**

The bill creates s. 337.02611, F.S., requiring the FDOT to conduct a study to evaluate the suitability of using phosphogypsum as a construction aggregate material. The FDOT may consider any prior or ongoing studies of phosphogypsum's road suitability. The study and a determination of suitability must be completed by January 1, 2024. Upon the FDOT's determination of suitability, the bill authorizes the use of phosphogypsum from phosphate production as a construction aggregate material in accordance with the conditions of the EPA approval for such use.

Again, until such time as the EPA approves such use, the FDOT would be prohibited from any use of phosphogypsum as a road construction aggregate material. Such use could only occur if the EPA issues an approval, and only under the conditions imposed by the EPA.

### **Wastes and Activities Not Regulated by the FDEP (Section 3)**

The bill amends s. 703.7045, F.S., providing that phosphogypsum used in accordance with an allowed use expressly specified in EPA regulations or pursuant to an express EPA approval for the specific use is not solid waste as defined in s. 403.703, F.S., and is an allowable use in this state. The bill restates current law that phosphogypsum may be placed in a phosphogypsum stack system permitted by the FDEP.

The FDEP advises that excluding phosphogypsum as a solid waste “would conflict with existing permitting and regulatory framework. Like the state provisions under section 403.7045(2)(c), F.S., under federal regulations at 40 CFR 261.4(b), phosphogypsum, along with process water from phosphoric acid production, are solid wastes that are not hazardous wastes. Accordingly, the proposed statutory revision in Section 3 of the bill, where phosphogypsum would not be a solid waste, creates uncertainty in the application of both the state and federal hazardous waste exemptions for phosphogypsum.”<sup>34</sup>

### **Effective Date (Section 4)**

The bill takes effect July 1, 2023.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>34</sup> *Supra* note 26.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Indeterminate. Should the EPA approve the use of phosphogypsum in road construction, the private sector may benefit from a reduction of the number of phosphogypsum stacks in the state. A literature review suggests the existence of opposing opinions relating to the advantages and disadvantages of exposure to phosphogypsum.

**C. Government Sector Impact:**

The FDOT will incur costs associated with conducting the study required by the bill, which costs are expected to be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 336.044 and 403.7045.

This bill creates the following section of the Florida Statutes: 337.02611.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The committee substitute removes ambiguity by separating the provision that use of phosphogypsum in accordance with an allowed use expressly specified in EPA regulations or pursuant to an express EPA approval for the specific use is not solid waste and is an allowed use in this state from the restatement of current law authorizing placement of phosphogypsum in a stack system permitted by the FDEP.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2023	.	
	.	
	.	
	.	

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The Committee on Transportation (Trumbull) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 83 - 89  
and insert:  
defined in s. 403.703. Phosphogypsum used in accordance with an allowed use expressly specified in United States Environmental Protection Agency regulations or pursuant to an express United States Environmental Protection Agency approval for the specific use is not solid waste as defined in s. 403.703 and shall be an allowed use in this state. Phosphogypsum may be placed in a





779718

11 phosphogypsum stack system permitted by the department pursuant  
12 to ss. 403.4154 and 403.4155.

13  
14 ===== T I T L E A M E N D M E N T =====

15 And the title is amended as follows:

16 Delete lines 15 - 17

17 and insert:

18 prohibiting phosphogypsum from being regulated as  
19 solid waste if used in accordance with an allowed use  
20 under specified federal regulations and approvals;  
21 providing that phosphogypsum may be placed in stack  
22 systems permitted by the department; providing an  
23 effective date.

By Senator Trumbull

2-01100A-23

20231258\_\_

1 A bill to be entitled  
 2 An act relating to the use of phosphogypsum; amending  
 3 s. 336.044, F.S.; authorizing the Department of  
 4 Transportation to undertake demonstration projects  
 5 using phosphogypsum in road construction aggregate  
 6 material to determine its feasibility as a paving  
 7 material; creating s. 337.02611, F.S.; requiring the  
 8 department to conduct a study on the suitability of  
 9 using phosphogypsum as a construction aggregate  
 10 material; providing requirements for the study;  
 11 providing that such materials may be used as a  
 12 construction aggregate material in accordance with  
 13 specified regulations if the department determines it  
 14 suitable for such use; amending s. 403.7045, F.S.;  
 15 prohibiting phosphogypsum placed in specified stack  
 16 systems from being regulated as solid waste under  
 17 certain circumstances; providing an effective date.  
 18  
 19 Be It Enacted by the Legislature of the State of Florida:  
 20  
 21 Section 1. Subsection (2) of section 336.044, Florida  
 22 Statutes, is amended to read:  
 23 336.044 Use of recyclable materials in construction.—  
 24 (2) The Legislature declares it to be in the public  
 25 interest to find alternative ways to use certain recyclable  
 26 materials that currently are part of the solid waste stream and  
 27 that contribute to problems of declining space in landfills. To  
 28 determine the feasibility of using certain recyclable materials  
 29 for paving materials, the department may undertake demonstration

Page 1 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

2-01100A-23

20231258\_\_

30 projects using all of the following materials in road  
 31 construction:  
 32 (a) Ground rubber from automobile tires in road resurfacing  
 33 or subbase materials for roads.~~†~~  
 34 (b) Ash residue from coal combustion byproducts for  
 35 concrete and ash residue from waste incineration facilities and  
 36 oil combustion byproducts for subbase material.~~†~~  
 37 (c) Recycled mixed-plastic material for guardrail posts or  
 38 right-of-way fence posts.~~†~~  
 39 (d) Construction steel, including reinforcing rods and I-  
 40 beams, manufactured from scrap metals disposed of in the state.~~†~~  
 41 ~~and~~  
 42 (e) Glass~~†~~ and glass aggregates.  
 43 (f) Phosphogypsum from phosphate production in road  
 44 construction aggregate material.  
 45 Section 2. Section 337.02611, Florida Statutes, is created  
 46 to read:  
 47 337.02611 Phosphogypsum as a construction aggregate  
 48 material; study.—  
 49 (1) The department shall conduct a study to evaluate the  
 50 suitability of using phosphogypsum as a construction aggregate  
 51 material as defined in s. 337.0261(1). The department may  
 52 consider any prior or ongoing studies of phosphogypsum's road  
 53 suitability in the fulfillment of this duty. The study and a  
 54 determination of suitability must be completed by January 1,  
 55 2024.  
 56 (2) Upon a determination of suitability by the department,  
 57 phosphogypsum from phosphate production may be used as a  
 58 construction aggregate material in accordance with the

Page 2 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

2-01100A-23 20231258\_\_

59 conditions of the United States Environmental Protection Agency  
60 approval for the use.

61 Section 3. Paragraph (f) of subsection (1) of section  
62 403.7045, Florida Statutes, is amended to read:

63 403.7045 Application of act and integration with other  
64 acts.—

65 (1) The following wastes or activities may not be regulated  
66 pursuant to this act:

67 (f) Industrial byproducts, if:

68 1. A majority of the industrial byproducts are demonstrated  
69 to be sold, used, or reused within 1 year;—

70 2. The industrial byproducts are not discharged, deposited,  
71 injected, dumped, spilled, leaked, or placed upon any land or  
72 water so that such industrial byproducts, or any constituent  
73 thereof, may enter other lands or be emitted into the air or  
74 discharged into any waters, including groundwaters, or otherwise  
75 enter the environment such that a threat of contamination in  
76 excess of applicable department standards and criteria or a  
77 significant threat to public health is caused; and—

78 3. The industrial byproducts are not hazardous wastes as  
79 defined in s. 403.703 and rules adopted under this section.

80

81 Sludge from an industrial waste treatment works that meets the  
82 exemption requirements of this paragraph is not solid waste as  
83 defined in s. 403.703. Phosphogypsum placed in a phosphogypsum  
84 stack system permitted by the department or used in accordance  
85 with an allowed use expressly specified in United States  
86 Environmental Protection Agency regulations or pursuant to an  
87 express United States Environmental Protection Agency approval

Page 3 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

2-01100A-23 20231258\_\_

88 for the specific use is not solid waste as defined in s. 403.703  
89 and shall be an allowed use in this state.

90 Section 4. This act shall take effect July 1, 2023.

Page 4 of 4

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

APPEARANCE RECORD

3-20-23

Meeting Date

1258

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Merrilee Malwitz-Jipson

Phone 352-222-8893

Address 460 SW Riverland Ct. Street

Email Merrileeart@gmail.com

Fort White FL City State

32038 Zip

Speaking: [ ] For [x] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

3/20/23

Meeting Date

SB 1258

Bill Number or Topic

Transportation

Committee

Amendment Barcode (if applicable)

Name Jane Blais

Phone 352 318 4602

Address 252 Riverview Circle

Email missblue88@gmail.com

Street

High Springs

City

State

32643

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

3/20/23

Meeting Date

SB 1258

Bill Number or Topic

Transportation

Committee

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 521-1200

Address 136 S Bronough St

Email cjohnson@flchamber.com

Street

Tallahassee FL

32301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Chamber of Commerce

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11,045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

# APPEARANCE RECORD

1258

3/20/23

Meeting Date

Bill Number or Topic

Transportation

12330

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name **David Cullen**

Phone **941-323-2404**

Address **2838 Little Deal Rd**

Email **cullenasea@gmail.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Sierra Club Florida**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

3/20/23  
Meeting Date

1258  
Bill Number or Topic

Transportation  
Committee

Amendment Barcode (if applicable)

Adam Basford  
Name

352 538 4299  
Phone

516 N Adams St  
Address  
Street

abasford@aif.com  
Email

Tallahassee FL 32301  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Associated Industries of Florida

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

---

BILL: CS/SB 1532

INTRODUCER: Transportation Committee; Senators Burgess and Collins

SUBJECT: Regional Transportation Planning

DATE: March 21, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	<b>Fav/CS</b>
2.			ATD	
3.			FP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1532 provides legislative findings and intent to explore the dissolution or transfer of the governance, staff, operations, funding, and facilities of the Hillsborough Area Regional Transit Authority with the goal of enhancing regional transit service and connectivity in the Tampa Bay Area.

The bill directs the Florida Department of Transportation (FDOT), or its consultant, to conduct a study of the potential dissolution of the Hillsborough Area Regional Transit Authority. The study must address all aspects of the winding down of the affairs of the Hillsborough Area Regional Transit Authority, including the following:

- The dissolution of the governance structure, including governing board membership, powers, and responsibilities.
- The drawdown or transfer of staff.
- The transfer of financial assets and obligations, as well as the transfer of responsibilities and administered programs and of facilities and operations.
- Impacts to federal or state grants or funds.
- Any legal or financial impediments to or limitations on such dissolution.
- The advantages and disadvantages of dissolution or transfer.
- Any other matters deemed necessary or appropriate by the Florida Department of Transportation.

The bill requires the FDOT to submit a report by January 1, 2024, detailing the results of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The FDOT is expected to incur unknown costs associated with the study, which costs are expected to be absorbed within existing resources.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Hillsborough Area Regional Transit Authority

The Hillsborough Transit Authority, operating and also known as HART, was created as a body politic and corporate under Chapter 163, Part V, ss. 163.567, et. seq, F.S., in October of 1979.<sup>1</sup> HART was chartered for the purpose of providing mass transit service to its two original charter members, the City of Tampa and Hillsborough County. Thereafter, HART could admit to membership any county or municipality contiguous to one of its members upon application and after approval by a majority vote of the Board of Directors. The City of Temple Terrace was subsequently added to HART's membership.

Currently, HART is governed by a 14-member Board of Directors, as follows:<sup>2</sup>

- Seven Hillsborough County Commissioners;
- Four City of Tampa members, including either the mayor or a city council member;
- One City of Temple Terrace member, either the mayor or a city council member; and the
- Two members appointed by the Governor.<sup>3</sup>

HART's current service area covers approximately 1,000 square miles with a fleet of almost 200 buses,<sup>4</sup> and also provides other services, such as HARTFLEX, which provides paratransit

---

<sup>1</sup> Sections 163.565-163.572, F.S., the Regional Transportation Authority Law, authorize the creation of regional transportation authorities by any two or more contiguous counties, cities, or other political subdivisions, who are authorized to convene a charter committee for the purpose of developing a charter under which a regional transportation authority may be constituted, composed, and operated. However, no county, municipality, or other political subdivision may be a member of more than one regional transportation authority. The law provides for a charter committee to be formed consisting of representatives of the affected local governments (by population formula) to develop a charter defining the powers and duties of the transportation authority and submit the charter to the Department of State. Once the charter is filed, the Governor must appoint two members to the board of directors of the transportation authority. The remaining membership of the board consists of representatives of the local governments. A transportation authority is authorized to incur debt, to levy ad valorem taxes (up to 3 mills, with county commission approval and by a majority of voters in the affected area), and has limited eminent domain powers.

<sup>2</sup> HART is an independent special district.

<sup>3</sup> See [hillsboroughcounty.org](https://hillsboroughcounty.org), [Hillsborough County - HART](https://hillsboroughcounty.org/Hillsborough-County-HART) (last visited March 15, 2023). The members serve three-year terms.

<sup>4</sup> See [gohart.org](https://gohart.org), [Bus Services | HART \(gohart.org\)](https://gohart.org/Bus-Services-HART) (last visited March 15, 2023).

service;<sup>5</sup> the free-fare TECO Line Streetcar System,<sup>6</sup> and other alternative transportation services.<sup>7</sup> Concerns surrounding HART's leadership and staffing have recently been reported.<sup>8</sup>

### **Prior Study on Potential Merger**

In 2012, the Legislature passed HB 599 requiring the Pinellas Suncoast Transit Authority and HART to conduct a study regarding increasing efficiencies through a possible merger. The initial study conducted in 2012 found that merging the two agencies could save an estimated \$2.4 million. A more detailed study conducted by KPMG, an accounting firm, in 2014 decreased that number to \$339,000 due to costs associated with severance pay for the laid-off workers and increased pay for the remaining employees. The study also noted that cutting positions could lead to service reductions and the end of on-going projects across the service areas.<sup>9</sup>

### **III. Effect of Proposed Changes:**

The bill creates an undesignated section of Florida law providing legislative findings and intent to explore the dissolution or transfer of the governance, staff, operations, funding, and facilities of HART with the goal of enhancing regional transit service and connectivity in the Tampa Bay Area.

The bill directs the Florida Department of Transportation (FDOT), or its consultant, to conduct a study of the potential dissolution of HART. The study must address all aspects of the winding down of the affairs of HART, including the following:

- The dissolution of the governance structure, including governing board membership, powers, and responsibilities;
- The dissolution of the governance structure, including governing board membership, powers, and responsibilities;
- The drawdown or transfer of staff;
- The transfer of financial assets and obligations, as well as the transfer of responsibilities and administered programs and of facilities and operations;
- Impacts to federal or state grants or funds;
- Any legal or financial impediments to or limitations on such dissolution;
- The advantages and disadvantages of dissolution or transfer; and
- Any other matters deemed necessary or appropriate by the FDOT.

The bill requires the FDOT to submit a report by January 1, 2024, detailing the results of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

---

<sup>5</sup> See gohart.org, [Van Service | HART \(gohart.org\)](#) (last visited March 15, 2023).

<sup>6</sup> See gohart.org, [TECO Line Steetcar System | HART \(gohart.org\)](#) (last visited March 15, 2023).

<sup>7</sup> See gohart.org, [Alternative Transportation | HART \(gohart.org\)](#) (last visited March 15, 2023).

<sup>8</sup> See, e.g., cltamps.com, ['Staff feels demoralized': HART board members never saw a year-old peer review raising concerns over management | Tampa Bay News | Tampa | Creative Loafing Tampa Bay \(cltampa.com\)](#); transittalent.com, [Pledging truth and transparency, staff say HART CEO fostered fear and secrecy \(transittalent.com\)](#); and tampabay.com, [Investigation into HART CEO to continue, results to be public \(tampabay.com\)](#) (last visited March 15, 2023).

<sup>9</sup> See tampabay.com, [REPORT FINDS FEW SAVINGS IN MERGER OF HART, PSTA \(tampabay.com\)](#) (last visited March 15, 2023).

The bill takes effect July 1, 2023.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDOT is expected to incur unknown costs associated with the study, which costs are expected to be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of Florida law.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on March 20, 2023:**

The committee substitute removes the PSTA from the underlying bill, leaving only HART subject to the bill's provisions, and revises the list of items to be addressed by the FDOT's study.

- B. **Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---



457298

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2023	.	
	.	
	.	
	.	

---

The Committee on Transportation (Burgess) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 19 - 54  
and insert:  
whether the dissolution of the Hillsborough Area Regional  
Transit Authority (HART) would result in operational  
efficiencies and reduced administrative costs and further a  
regional approach to transit. It is the intent of the  
Legislature to explore the dissolution or transfer of the  
governance, staff, operations, funding, and facilities of HART



457298

11 with the goal of enhancing regional transit service and  
12 connectivity in the Tampa Bay Area.

13 (2) The Department of Transportation, or its consultant,  
14 shall conduct a study of the potential dissolution of HART. The  
15 study must address all aspects of the winding down of the  
16 affairs of HART, including the following:

17 (a) The dissolution of the governance structure, including  
18 governing board membership, powers, and responsibilities.

19 (b) The drawdown or transfer of staff.

20 (c) The transfer of financial assets and obligations.

21 (d) The transfer of responsibilities and administered  
22 programs.

23 (e) The transfer of facilities and operations.

24 (f) Impacts to federal or state grants or funds.

25 (g) Any legal or financial impediments to or limitations on  
26 such dissolution.

27 (h) The advantages and disadvantages of dissolution or  
28 transfer.

29 (i) Any other matters deemed necessary or appropriate by  
30 the department.

31 (3) By January 1, 2024, the department shall submit a  
32 report detailing the results of the study to the Governor, the  
33 President of the

34  
35 ===== T I T L E A M E N D M E N T =====

36 And the title is amended as follows:

37 Delete lines 5 - 6

38 and insert:

39 to conduct a study regarding the potential dissolution



457298

40           or transfer of the governance, staff, operations,  
41           funding, and facilities of the Hillsborough Area  
42           Regional



By Senator Burgess

23-00989B-23

20231532\_\_

A bill to be entitled

An act relating to regional transportation planning; providing legislative findings and intent; requiring the Department of Transportation, or its consultant, to conduct a study regarding the Hillsborough Area Regional Transit Authority and the Pinellas Suncoast Transit Authority; specifying requirements of the study; requiring the department to submit a report to the Governor and Legislature by a specified date; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The Legislature finds that, given this state's rapid population growth, coordination of transportation planning, particularly regional transportation planning, is critical to the safe and efficient management, operation, and development of public transit systems. The Legislature questions whether the merger of the Hillsborough Area Regional Transit Authority (HART) and the Pinellas Suncoast Transit Authority (PSTA) would result in operational efficiencies and reduced administrative costs and further a regional approach to transit. It is the intent of the Legislature to explore the merger or dissolution of the governance, staff, operations, funding, and facilities of the HART and the PSTA with the goal of enhancing regional transit service and connectivity in the Tampa Bay Area.

(2) The Department of Transportation, or its consultant, shall conduct a study of the potential merger of the HART and the PSTA into one entity responsible for regional planning and

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

23-00989B-23

20231532\_\_

operation of a public transit system covering the Tampa Bay Area. The study must address how the HART and the PSTA could be merged to facilitate delivery of improved transit services in the Tampa Bay Area. The study must address all of the following:

(a) Governance structure, including governing board membership, terms, responsibilities, officers, powers, duties, and responsibilities.

(b) Staff organization.

(c) Funding options and implementation of the merger.

(d) Facilities ownership and management.

(e) Financing of current and future facilities and operations.

(f) Current financial obligations and resources.

(g) Any legal or financial impediments to or limitations on such a merger.

(h) The advantages and disadvantages of a merged entity.

(i) Any other matters deemed necessary or appropriate by the department.

(3) As a part of the study specified in subsection (2), the department, or its consultant, shall also study the potential dissolution of the HART and the advantages and disadvantages of such an action.

(4) By January 1, 2024, the department shall submit a report detailing the results of the study specified in subsections (2) and (3) to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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*The Florida Senate*

## Committee Agenda Request

**To:** Senator Nick DiCeglie, Chair  
Committee on Transportation

**Subject:** Committee Agenda Request

**Date:** March 10, 2023

---

I respectfully request that **Senate Bill #1532**, relating to Regional Transportation Planning, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Danny".

---

Senator Danny Burgess  
Florida Senate, District 23

# CourtSmart Tag Report

Room: SB 110  
Caption: Senate Transportation Committee

Case No.:

Type:  
Judge:

Started: 3/20/2023 12:32:29 PM

Ends: 3/20/2023 2:57:54 PM

Length: 02:25:26

12:32:28 PM Called to order  
12:32:32 PM Roll call  
12:32:36 PM Quorum present  
12:32:56 PM Pledge of Allegiance  
12:33:16 PM Chair Dicegli  
12:33:48 PM Tab 9  
12:34:07 PM SB 1532  
12:34:16 PM Burgess explains  
12:34:40 PM Amendment 457298  
12:35:42 PM Questions none  
12:36:27 PM Vice-Chair Davis  
12:36:52 PM No appearance no debate  
12:36:57 PM Close on amendment  
12:36:59 PM Adopted  
12:37:04 PM Back on bill as amended  
12:37:11 PM No question no appearance  
12:37:22 PM No debate  
12:37:24 PM Boyd  
12:37:41 PM Close on bill  
12:37:46 PM Vote - CS SB 1532 Favorable  
12:38:17 PM Tab 2 SB 678  
12:38:32 PM Powell explains  
12:38:40 PM Questions none  
12:39:10 PM No appearance  
12:39:14 PM No debate  
12:39:17 PM Waive close  
12:39:23 PM Vote SB 678 Favorable  
12:39:44 PM Tab 5 SB 838  
12:40:10 PM Collins explains  
12:40:51 PM Question  
12:41:53 PM Hooper  
12:42:02 PM Collins  
12:42:21 PM Amendment 445874  
12:42:34 PM Question - Pizzo  
12:42:55 PM Collins  
12:43:18 PM Waive close  
12:43:24 PM Adopted  
12:43:28 PM Back on bill as amendment  
12:43:35 PM Question- Pizzo  
12:43:40 PM Collins  
12:44:00 PM Rick Newsome support  
12:44:17 PM Waive close  
12:44:22 PM Vote SB 838 Favorable  
12:44:46 PM Gavel passed to Vice Chair Davis  
12:45:00 PM Tab 1 SB 96  
12:45:08 PM Dicegli explains  
12:45:49 PM Questions - none  
12:46:14 PM Amendment 547876 -Dicegli explains  
12:47:06 PM Questions - Pizzo  
12:48:26 PM Dicegli  
12:48:55 PM Pizzo  
12:48:58 PM Dicegli

12:49:56 PM Debate-Hooper  
12:50:51 PM Davis  
12:50:56 PM Pizzo  
12:51:29 PM Davis  
12:52:12 PM Waive close - amendment adopted  
12:52:18 PM Back on bill as amended  
12:52:24 PM Questions- none  
12:52:30 PM Chris Dudley waive support / Candice Ericks in support on record  
12:52:41 PM No debate  
12:52:44 PM Waive close  
12:52:52 PM Vote CS SB 96 Favorable  
12:53:23 PM Tab 7 SB 1250  
12:53:49 PM Dicegli  
12:55:46 PM Explains bill  
12:56:50 PM Amendment 161020  
12:56:51 PM Dicegli explained  
12:57:39 PM Questions - none  
12:58:40 PM No appearance, or debate  
12:58:48 PM Waive close  
12:58:58 PM Amendment adopted  
12:59:01 PM Back on bill as amended  
12:59:08 PM No questions  
12:59:11 PM No appearance no debate  
12:59:20 PM Dicegli close on bill  
12:59:32 PM Vote CS SB 1250 Favorable  
1:00:23 PM Tab SB 1070  
1:00:55 PM Hooper explained  
1:01:20 PM Amendment 948716  
1:02:22 PM Hooper explains  
1:02:28 PM No questions  
1:02:49 PM No debate  
1:02:55 PM Waive close  
1:02:57 PM Amendment adopted  
1:03:07 PM Back on bill as amended  
1:03:13 PM Pizzo  
1:03:17 PM Hooper  
1:03:31 PM Pizzo  
1:03:36 PM Hooper  
1:03:45 PM Pizzo  
1:04:08 PM Hooper  
1:04:53 PM Pizzo  
1:04:59 PM Hooper  
1:05:19 PM Pizzo  
1:06:13 PM Jeff Sharkey -info / Carolyn Johnson in support  
1:06:56 PM Ananth Prasad in support  
1:09:24 PM Question form Davis  
1:10:31 PM Prasad  
1:11:03 PM Broxson  
1:11:19 PM Prasad  
1:11:53 PM Pizzo  
1:11:57 PM Prasad  
1:12:04 PM Pizzo  
1:12:08 PM Prasad  
1:12:23 PM Debate: none  
1:12:33 PM Hooper close  
1:12:40 PM Vote CS SB 1070 Favorable  
1:13:56 PM Pass gavel back to Chair Dicegli  
1:14:04 PM Tab 4 SB 760  
1:14:11 PM Perry explains  
1:14:19 PM Amendment 652044  
1:14:33 PM Perry explains  
1:14:47 PM Questions - Davis

1:15:47 PM Perry  
1:16:21 PM Perry  
1:16:44 PM Amendment appearance  
1:16:59 PM Denis LeVine in support  
1:19:25 PM Harvey Spencer against  
1:20:07 PM Marson Johnson Jr - against  
1:21:02 PM Davis  
1:21:05 PM Pizzo  
1:21:09 PM Johnson  
1:22:13 PM Pizzo  
1:22:18 PM Johnson  
1:23:04 PM Pizzo  
1:23:17 PM Johnson  
1:23:27 PM Pizzo  
1:24:00 PM Johnson  
1:24:19 PM Mike Seamon against  
1:28:55 PM Dicegli comment  
1:29:00 PM Leslie Dughi  
1:29:09 PM No debate  
1:29:16 PM Waive close / amendment adopted  
1:29:23 PM Back on the bill as amended  
1:29:30 PM Perry  
1:30:08 PM Pizzo  
1:30:11 PM Perry  
1:31:03 PM Pizzo  
1:31:08 PM Perry  
1:31:52 PM Appearance  
1:31:56 PM Denis LeVine in support / Leslie Dughi support  
1:32:06 PM Doug Bell support  
1:32:42 PM Fred Dickenson support / Alix Miller support  
1:32:50 PM Debate - Hooper  
1:33:17 PM Torres  
1:33:56 PM Diciglie  
1:34:11 PM Perry close  
1:34:24 PM Vote CS SB 760 Favorable  
1:35:26 PM Tab 3 SB 712  
1:35:40 PM Avila explains  
1:36:31 PM Amendment 816554  
1:37:35 PM Avila explains  
1:38:42 PM Questions  
1:39:45 PM Question  
1:39:48 PM Pizzo  
1:39:57 PM Avila  
1:40:09 PM Avila close on amendment  
1:40:28 PM Amendment adopted  
1:40:41 PM Back on bill as amended  
1:40:50 PM Davis  
1:40:57 PM Avila  
1:42:17 PM Davis  
1:43:20 PM Avila  
1:44:11 PM Davis  
1:44:39 PM Avila  
1:44:48 PM Davis  
1:45:05 PM Avila  
1:45:33 PM Davis  
1:45:38 PM Avila  
1:46:39 PM Broxson  
1:46:44 PM Avila  
1:47:45 PM Torres  
1:48:46 PM Avila  
1:49:42 PM Torres  
1:50:43 PM Avila

1:51:33 PM Pizzo  
1:51:39 PM Burton  
1:52:01 PM Burton in question  
1:52:33 PM Avila  
1:55:38 PM Burton  
1:55:44 PM Avila  
1:56:36 PM Davis  
1:56:41 PM Avila  
1:57:18 PM Pizzo  
1:58:02 PM Appearnace  
1:58:08 PM Ted Serbousek support  
1:58:58 PM Pizzo  
1:59:01 PM Ted Serbousek  
1:59:04 PM Pizzo  
1:59:11 PM Ted Serbousek  
1:59:33 PM Pizzo  
1:59:44 PM Ted Sebousek  
2:00:08 PM Pizzo  
2:00:53 PM Ted Sebousek  
2:01:04 PM Pizzo  
2:01:21 PM Ted serbousek  
2:01:38 PM Pizzo  
2:01:43 PM Ted Serbousek  
2:02:47 PM Pizzo  
2:02:51 PM Ted Serbousek  
2:03:04 PM Pizzo  
2:03:06 PM Ted Serbousek  
2:03:33 PM Pizzo  
2:03:35 PM Ted Serbousek  
2:03:46 PM Pizzo  
2:03:52 PM Ted Serbousek  
2:04:08 PM Pizzo  
2:04:12 PM Ted Serbousek  
2:06:16 PM Sony Dean Hartley against  
2:08:39 PM Davis  
2:08:48 PM Sony Dean Hartley  
2:10:20 PM Pizzo  
2:10:43 PM Sony Dean Hartley  
2:12:15 PM Pizzo  
2:12:19 PM Sony Dean Hartley  
2:13:39 PM Broxson  
2:13:43 PM Sony Dean Hartley  
2:14:53 PM Ron Book support  
2:15:03 PM David Bright against  
2:19:34 PM Pizzo  
2:19:45 PM David Bright  
2:20:32 PM Pizzo  
2:20:35 PM David Bright  
2:20:46 PM Pizzo  
2:21:01 PM David Bright  
2:21:41 PM Adam Basford against  
2:22:03 PM Ted Smith waive support  
2:22:12 PM Fred Baggett against  
2:24:54 PM Pizzo  
2:25:13 PM Erica Chanti in support  
2:25:22 PM Tracy Mayprnick in support  
2:25:34 PM Debate  
2:25:41 PM Boyd  
2:27:31 PM Pizzo  
2:29:24 PM Davis  
2:30:37 PM Torres  
2:31:03 PM Burton

2:31:49 PM Avila close  
2:34:11 PM Vote CS SB 712 Favorable  
2:35:11 PM Tab 8 SB 1258  
2:35:24 PM Trumbull explains  
2:36:02 PM Question - Davis  
2:37:02 PM Trumbull  
2:37:17 PM Davis  
2:37:23 PM Trumbull  
2:37:39 PM Davis  
2:38:06 PM Trumbull  
2:38:31 PM Amendment 779718  
2:39:31 PM Trumbull explains  
2:39:36 PM No questions  
2:39:49 PM No debate  
2:39:53 PM Waive close  
2:39:56 PM Amendment adopted  
2:40:03 PM Back on bill as amended  
2:40:18 PM Pizzo  
2:40:23 PM Trumbull  
2:40:38 PM Appearance  
2:40:40 PM Merrilee Malwitz Jipson against  
2:45:39 PM Pizzo  
2:45:47 PM Merrilee Malwitz Jipson against  
2:46:49 PM Merrilee Malwitz Jipson  
2:46:53 PM Pizzo  
2:47:18 PM Jane Blais against  
2:50:16 PM Carolyn Johnson support  
2:50:24 PM David Cullen against  
2:50:36 PM Adam Basford support  
2:50:44 PM Pizzo  
2:52:49 PM Broxson  
2:53:16 PM Torres  
2:53:33 PM Davis  
2:54:24 PM Boyd  
2:55:13 PM Trumbull close  
2:56:07 PM Vote CS SB 1258 Favorable  
2:57:11 PM Vote after Burton  
2:57:24 PM Vote after Gruters  
2:57:37 PM Boyd moves adjourn  
2:57:43 PM Meeting adjourned